

YOUNG PEOPLE'S LEGAL RIGHTS CONFERENCE 2020

AUGUSTA ITUA

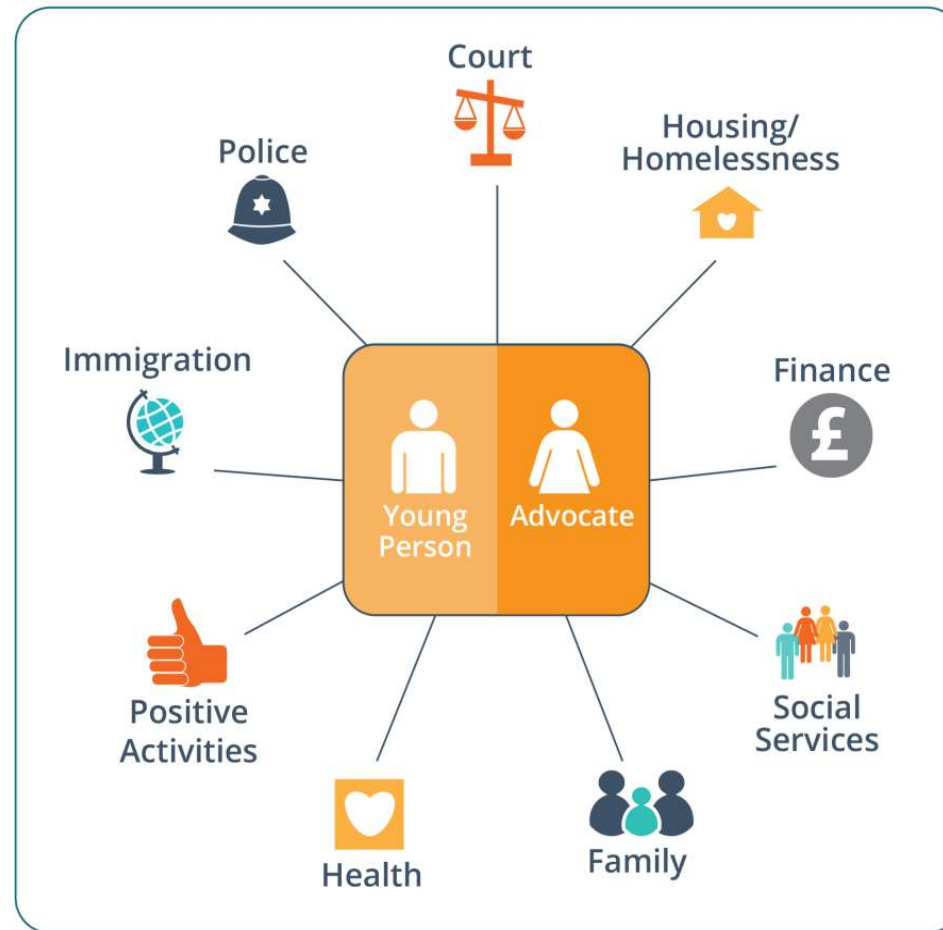
YOUTH JUSTICE LAWYER AND POLICY OFFICER

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JUST FOR KIDS  **LAW**

YJLC
Youth Justice Legal Centre

JUST FOR KIDS LAW



JUST FOR KIDS LAW: MAIN AREAS OF WORK

Standing up for kids

JUST FOR KIDS



Children's
Rights Alliance
for England

YJLC

Youth Justice Legal Centre

**School
Exclusions Hub**



CORONAVIRUS LEGISLATION

(1) Coronavirus Act 2020

(2) Coronavirus Regulations 2020

- Both apply to both children and adult
- Create new criminal offences and new police powers
- The Police can use reasonable force to make sure you comply
- Higher risk that those confronted by the police will end up arrested for other offences
- Looked After Children, Care Leavers and Black, Asian and Minority Ethnic (BAME) groups, who are already over-represented within the youth justice system, are at risk of being disproportionately impacted

NEW POWERS

- Power to make arrests to maintain public health and public order
- Breach of the Peace powers
- Power to direct you to go home in relation to overnight stays
- Powers to direct people to disperse and go home if there is an illegal gathering – can use *reasonable force*
- Power to remove people to their homes people in illegal gatherings in public places
- Powers relating to potentially infectious persons

POTENTIALLY INFECTIOUS PERSONS

Section 51 and Schedule 21 of the Coronavirus Act

Powers relating to **potentially infectious persons** allow public health officers, constables and immigration officers to:

- a) Remove and direct to a place suitable for screening and assessment
- b) Require to remain at a place for screening and assessment purposes for 48 hours (a public health officer), 24 hours (constable) or 3 hours (immigration officer)
- c) Only in the presence of an individual with responsibility or appropriate adult, require to be screened and assessed and impose other requirements in connection with screening and assessment
- d) Only in the presence of an individual with responsibility or appropriate adult, impose restrictions if infected or screening is inconclusive.

A constable or immigration officer may use reasonable force, if necessary, in the exercise of these powers.

POTENTIALLY INFECTIOUS PERSONS

Children

A power under paragraph 10 or 14 of Schedule 21 may only be exercised in relation to a child in the presence of—

- a) an individual who has responsibility for the child, or
- b) if the child is not accompanied by such an individual, an adult that the person exercising the power **considers to be appropriate**, having regard to any views of the child.

Where a power is exercisable in relation to a child but the child is not accompanied by an individual who has responsibility for the child, the person by whom the power is exercisable must—

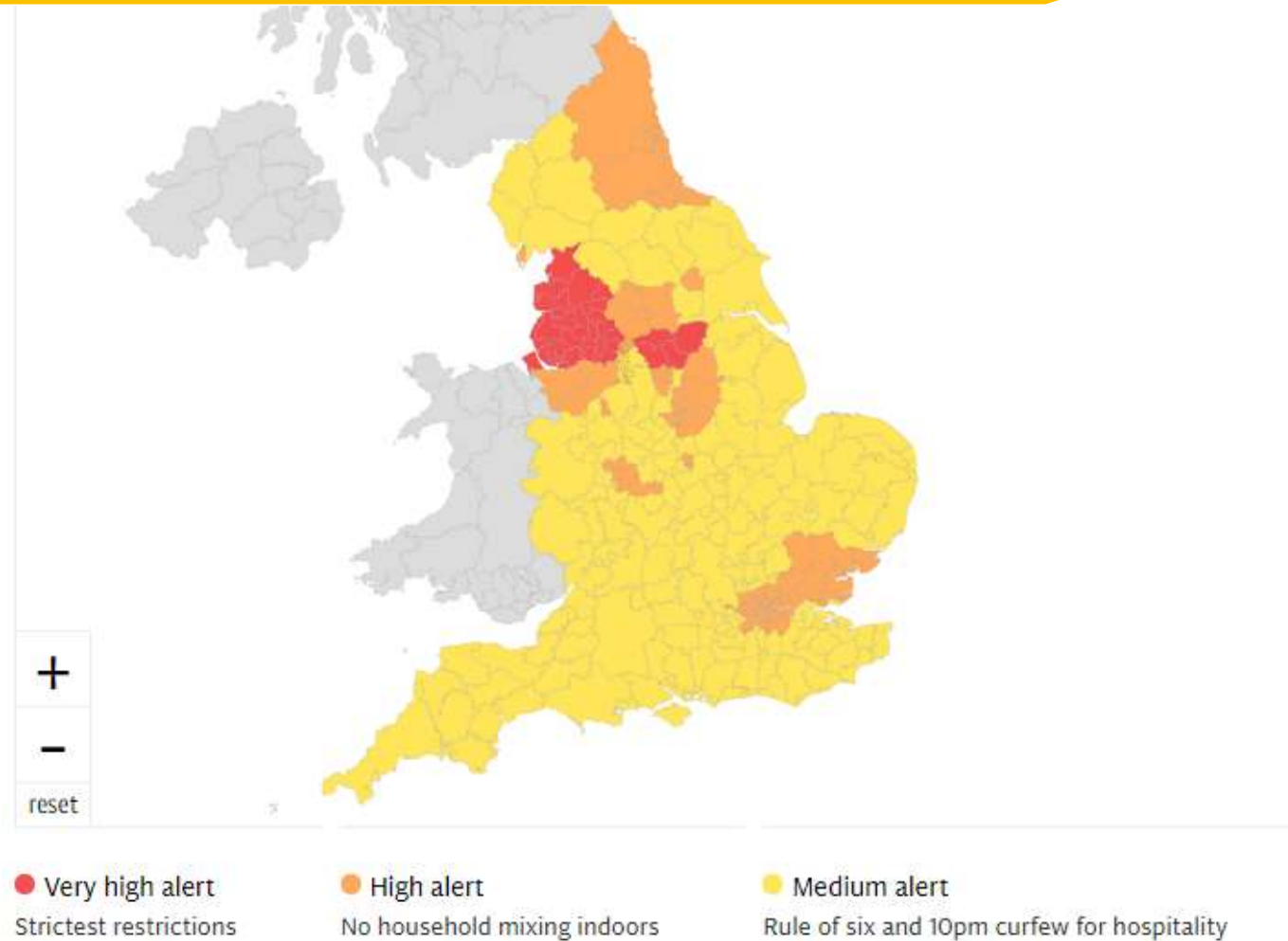
- a) if practicable, contact an individual who has responsibility for the child before the power is exercised, or
- b) if that is not practicable, **take reasonable steps after the power is exercised** to contact such an individual and inform them of any exercise of the power in relation to the child.

WHAT IS THE NEW THREE-TIER ALERT SYSTEM?

Start in England on Wednesday 14 October 2020

- Tier three - Very high
- Tier two – High
- Tier one – Medium
- Postcode checker: <https://www.gov.uk/find-coronavirus-local-restrictions>
- Department of Health & Social Care and Public Health England Guidance
- There are different restrictions in Scotland, Wales and Northern Ireland

LEVEL OF RESTRICTIONS AS AT 26 OCTOBER 2020



LOCAL COVID ALERT LEVEL

VERY HIGH
HIGH
MEDIUM

HM Government

LOCAL COVID ALERT LEVEL

MEDIUM

VERY HIGH
HIGH
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HIGH
MEDIUM

HM Government

LOCAL COVID ALERT LEVEL

VERY HIGH

| Category | Medium | High | Very High |
|--|---|---|--|
| Social Contact | Rule of six indoors and outdoors, in all settings. | 1 household / bubble indoors. Rule of six outdoors. | 1 household / bubble in most locations, indoors and outdoors. Rule of six applies in some outdoor settings like parks, public gardens and sports courts. |
| Weddings and Funerals | Up to 15 guests for weddings and up to 30 guests for funerals. 15 for receptions, wakes and related ceremonies. | Up to 15 guests for weddings and up to 30 guests for funerals. 15 for receptions, wakes and related ceremonies. | Up to 15 guests for weddings and up to 30 guests for funerals. 15 for wakes and related ceremonies. Wedding receptions not permitted. |
| Overnight Stays | Overnight stays permitted subject to social contact rules. | Overnight stays permitted subject to social contact rules. | Those in area advised against overnight stays in other parts of UK. People outside area advised against overnight stays in area. |
| Working from home guidance | Work from home where possible. | Work from home where possible. | Work from home where possible. |
| Shopping and Retail | Open. | Open. | Open. |
| Leisure and gyms | Open. | Open. | Any closures or additional restrictions subject to consultation. |
| Hospitality | Open with some restrictions including 10pm closing time and table-service only. | Open with some restrictions including 10pm closing time and table-service only. | Pubs and bars must close except where they operate as a restaurant, meaning they can only serve alcohol with a substantial meal. Further closures subject to consultation. |
| Entertainment and tourist attractions | Open, except nightclubs and adult entertainment. | Open, except nightclubs and adult entertainment. | Any closures / additional restrictions subject to consultation. Nightclubs and adult entertainment remain closed. |
| Education | Schools, FE colleges open. Universities must reflect wider restrictions. | Schools, FE colleges open. Universities must reflect wider restrictions. | Schools, FE colleges open. Universities must reflect wider restrictions with option to move to greater online provision. |
| Healthcare Services | Open. | Open. | Open. |
| Residential Care | Open to external visitors with additional precautions, subject to individual care provider guidance. | No travel restrictions within area. Avoid travel into Local COVID Alert Level Very High areas where possible. | Closed to external visitors other than in exceptional circumstances. |
| Travel and Transport | No travel restrictions within area. Avoid travel into Local COVID Alert Level Very High areas where possible. | Closed to external visitors other than in exceptional circumstances. | May continue to travel to open venues, but reduce number of journeys where possible. Avoid travel where possible in or out of the affected area with exceptions including work and school. |
| Sporting Activity | Organised sport / licensed physical activity allowed in outdoor settings. Indoor organised sport must follow social contact rules (other than youth or disabled sport). | Organised sport / licensed physical activity allowed in outdoor settings. Indoor organised sport must follow social contact rules (other than youth or disabled sport). | Organised sport / licensed physical activity allowed in outdoor settings. Indoor organised sport must follow social contact rules (other than youth or disabled sport). |
| Worship | Open, subject to social contact rules. | Open, subject to social contact rules. | Open, subject to social contact rules. |
| Childcare | Registered and wraparound childcare open. Supervised activities permitted in private homes. Children's groups permitted. | Registered and wraparound childcare. Supervised activities permitted in private homes. Children's groups permitted. Children's bubbles for under 14s. | Registered and wraparound childcare. Supervised activities permitted in private homes. Children's groups permitted. Children's bubbles for under 14s. |
| Youth Clubs and Activities | Permitted. | Permitted. | Permitted. |

There are three simple actions we must all do to keep on protecting each other:

Wash hands
keep washing your hands regularly

Cover face
wear a face covering in enclosed spaces

Make space
stay at least 2 metres apart - or 1 metre with a face covering or other precautions

For more information and detailed guidance visit:
gov.uk/coronavirus

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Social Contact



1 household / bubble indoors. Rule of six outdoors.

Weddings and Funerals



Up to 15 guests for weddings and up to 30 guests for funerals. 15 for receptions, wakes and related ceremonies.

Overnight Stays



Overnight stays permitted subject to social contact rules.

Working from home guidance



Work from home where possible.

Shopping and Retail



Open.

Leisure and gyms



Open.

Hospitality



Open with some restrictions including 10pm closing time and table-service only.

Entertainment and tourist attractions



Open, except nightclubs and adult entertainment.

Education



Schools, FE colleges open. Universities must reflect wider restrictions.

Healthcare Services



Open.

Residential Care



Closed to external visitors other than in exceptional circumstances.

Travel and Transport



May continue to travel to open venues, but reduce number of journeys where possible. Avoid travel into Local COVID Alert Level Very High areas where possible.

Sporting Activity



Organised sport / licensed physical activity allowed in outdoor settings. Indoor organised sport must follow social contact rules (other than youth or disabled sport).

Worship



Open, subject to social contact rules.

Childcare



Registered and wraparound childcare. Supervised activities permitted in private homes. Children's groups permitted. Childcare bubbles for under 14s.

Youth Clubs and Activities



Permitted.

ENFORCEMENT

Meeting in larger groups

- Fixed Penalty Notice (for adults only)
- You can be fined £200 for the first offence, doubling for further offences up to a maximum of £6,400.
- If paid within 14 days, the FPN is reduced to £100
- Criminal proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice
- A person may not be convicted of the offence if the person pays the fixed penalty before the end of that period
- If you hold, or are involved in holding, an illegal gathering of over 30 people, the police can issue fines of £10,000

Potentially infectious persons

- It is an offence to fail to comply with the instructions of police officers without reasonable excuse, or obstruct them in the course of their duties, when they are exercising powers under Schedule 21.
- Offences can be punished by fines of up to £1,000 on summary conviction in a magistrates' court.

Policing

- The College of Policing have stated that "enforcement should be a last resort" and issued guidance that policing will adopt a four-phase approach: "Engage, Explain, Encourage, Enforce".

LEGAL RAMIFICATIONS OF COVID-19 FOR C&YP

- Appropriate adult
- Unaccompanied children
- Availability of FPN
- Arrest and detention
- Reasonable force
- Delays in decision making
- Timely Justice: Turning 18
- Video link hearings

ARREST AND DETENTION OF C&YP

Children and particularly BAME children are disproportionately stopped and searched.

- Largest proportion stopped of all age groups (42,424) were 15-19 year olds, between October 2017 and September 2018
- Black people had the highest stop and search rates in every police force area for which there was data, between 2009/10 and 2018/19
- In the year ending March 2019, there were just over 60,200 arrests of children (aged 10-17). Black children were over four times more likely than White children to be arrested. BAME children account for 29% of children arrested.
- In 2019, BAME children accounted for two thirds (67%) of the 7,038 children detained overnight by the MPS.

ARREST AND DETENTION OF C&YP

Since Covid-19:

- Young black men were stopped and searched by police more than 20,000 times in London during the coronavirus lockdown – the equivalent more than a quarter of all black 15- to 24-year-olds in the capital. More than 80% of the 21,950 searches between March and May resulted in no further action.
- Analysis by Liberty Investigates and the Guardian shows that BAME people received as many as 2,218 (16.5%) of the 13,445 fixed-penalty notices (FPNs) under distancing regulations recorded from 27 March 2020 to 11 May 2020, while White people were given about 7,865.
- Met Police data shows BAME people almost 50% more likely to be arrested for breaching coronavirus laws. Between 27 March 2020 and 14 May 2020, 414 BAME people were taken into custody in London, compared to 284 White people.

REASONABLE FORCE

- New provisions provide for the use of 'reasonable force' in exercising the powers conferred
- Increase in the use of teaser and spit-hoods as a 'distance control' use of force
- Disproportionate use of Taser and Spit-hood on BAME children

Use of Taser

- Used 1,700 times on children, between April 2018 and March 2019
- 1,009 uses by the MET, between January and October 2019
- Of those, 74% was on BAME children

Use of Spit-hood

- 34% of spit-hood use nationally and 72% of MET use accounted for BAME children, across the whole of 2017 and 2018

DELAYS IN DECISION MAKING

“All cases involving youth offenders must be dealt with expeditiously and avoid delay, which has at its core the principle that there is little point in conducting a trial for a young offender long after the alleged commission of an offence when the offender will have difficulty in relating the sentence to the offence. To maximise the impact on the youth offender, the case must be dealt with as soon as possible.”

CPS Legal Guidance on Youth Offenders

TURNING 18 DURING COVID-19

- Impact of Turning 18
- Disproportionality
- Loss of presumption of diversion
- Availability of Youth Offending Team (YOT) support
- Adult Courts
- Adult sentences
- Loss of anonymity

VIDEO LINK HEARINGS

- Increase in the use of video link facilities
- Risk of compromising rights to a fair trial and ability to effectively participate
- Impedes ability to build rapport and trust with the young person
- Decision to undertake virtual hearings should be undertaken with extreme caution
- Should not be the default position for non-administrative hearings

SPEAK TO YOUR LAWYER

Coronavirus: Interim CPS Case Review Guidance – Application of the Public Interest Covid-19 crisis response

- ✓ clarifies prosecutors' review responsibilities under the Code in the context of the Covid-19 pandemic

STOP AND SEARCH, KNOW YOUR RIGHTS



FURTHER RESOURCES

- ❑ YJLC FREE Legal Advice Line

<https://yjlc.uk/advice/>

- ❑ Youth Justice Law and Practice by Kate Aubrey-Johnson, Shauneen Lambe and Jennifer Twite

<https://www.lag.org.uk/shop/book-title/206106/youth-justice-law-and-practice>

CONTACT US

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