

Joint electronic monitoring protocol

Protocol between youth offending teams (YOTs) and Electronic Monitoring Services (EMS) regarding electronic monitoring of young people

Contents

Purpose	2
Background	3
Responsibilities of YOTs	4
Enforcement	6
Responsibilities of EMS	10
Young People in Local Authority Accommodation	12
Review	13
Signatures	14

1. Purpose

- 1.1 This joint protocol lays out the responsibilities of youth offending teams/services (YOTs) and Electronic Monitoring Services (EMS) in relation to the electronic monitoring (EM) of young people.
- 1.2 The protocol is based on the principal aim of the youth justice system as laid out in the Crime and Disorder Act 1998 and the Criminal Justice & Immigration Act 2008, which is to prevent youth offending.
- 1.3 This version of the protocol is an update to the version issued in 2010 and is designed to be an interim measure pending the development of a new stakeholder protocol led by the Ministry of Justice (MoJ) EM contract team and EMS.

2. Background

2.1 Electronic monitoring of young people in the youth justice system is legislated for in the following acts:

- Powers of Criminal Courts Sentencing Act 2000
- Anti-Social Behaviour Act 2003
- Bail Act 1976
- Crime and Disorder Act 1998
- Criminal Justice & Immigration Act 2008
- Legal Aid, Sentencing and Punishment of Offenders Act 2012

2.2 The need for the provision on electronic monitoring is highlighted in YJB National Standards for Youth Justice and YJB Case Management Guidance. See link:

<https://www.gov.uk/government/collections/case-management-guidance>

2.3 This document outlines a process for the provision of EM between YOTs and EMS, the electronic monitoring provider for England and Wales.

3. Responsibilities of YOTs

- 3.1 On the day a young person is made subject to any curfew requirement (whether as a condition of bail, a condition of a Detention and Training Order (DTO), a condition of a sentence under Section 90, Crime and Disorder Act, YRO with Intensive Surveillance and Supervision (ISS) or a curfew requirement under the Criminal Justice & Immigration Act 2008) the YOT worker must complete and send via secure e-mail or fax (secure email is preferred and fax should only be used as a last resort) a copy of the Supervising Officer (SO) Contact Details Form (see Appendix A) to EMS.
- 3.2 This will ensure that EMS is aware of the name of the Supervising Officer (or relevant contact officer if no supervising officer has yet been appointed) and will prompt EMS to obtain a copy of the Order or bail form from the Court or the Notice of Supervision from the under-18 young offender institute (YOI). Although the court should have sent notification of the Order/condition to EMS, this form sent by the YOT will act as a “failsafe”.

NB: monitoring cannot commence until EMS has a copy of the Order or licence.

The form should be placed on the young person’s file and a note entered onto the YOT database stating where the form is to be found on the file. YOTs should ensure a supervising officer is appointed within one working day of the order/condition being made and use the form to inform EMS of any change of supervising officer for the case. For those on YRO stand-alone curfew requirements the YOT will follow local procedures in considering whether to allocate a supervising officer. However The YOT will still need to complete Appendix A, this is to ensure that EMS are aware of who to contact in the event of court action.

- 3.3 The YOT worker should also check that the court or the YOI have faxed/emailed a copy of the Curfew Order or Notice of Supervision to EMS.
- 3.4 A leaflet “Curfew Monitoring as an Alternative – Electronic Monitoring Subject Guide” provided by EMS should be given to the young person and parent/carer by the YOT worker before they leave court. Copies of the leaflet should be kept at court and YOT staff should ask the court to instruct the young person to remain at court until served with the order, seen by the YOT officer and informed about the electronic monitoring requirement.
- 3.5 The next working day after the young person is sentenced to an order involving electronic monitoring the YOT will contact EMS to confirm that the order has been received and whether the electronic monitoring equipment has been successfully installed.

- 3.6 If a young person is transferred to another area YOTs will have regard for the YJB National Protocol for Case Responsibility. See Link <https://www.gov.uk/government/publications/national-protocol-for-case-responsibility>

4. Enforcement

- 4.1 YOTs will be responsible for enforcing through the courts all electronic monitoring requirements including Youth Rehabilitation Order (YRO) with curfew requirements (including YRO stand-alone curfews) and curfew conditions attached to DTO/section 90 Orders.
- 4.2 Where a young person is on a stand-alone YRO Curfew requirement EMS will be responsible for issuing warning letters for first and second level less serious violations however the YOT will be responsible for breach action through the courts for both third and more serious violation. For all other electronic monitored orders the YOT will be responsible for both warnings and breach action.
- 4.3 The Police are responsible for enforcement of bail conditions, and therefore any concerns held by YOTs about young people breaching electronically-monitored bail conditions should be referred to the police in the first instance in the same way as other breaches of bail conditions are. EMS are also to be notified of the circumstances where the breach is suspected to be as a result of any misuse of the electronic monitoring equipment.
- 4.4 There are two levels at which a violation of a curfew requirement or condition may take place:

More Serious Level

Violation occurs when:

- there is an absence from the curfew address which amounts to an entire curfew period
- one or more absences from the curfew address occur where the total lengths aggregate to a period of two hours or more, where the young person has already received two formal warnings for previous curfew or tamper violations
- any tamper violation occurs, where the subject has already received two formal written warnings for curfew or tamper violations
- any removal of equipment fitted to the young person or damage causing the non-functioning of any part of the equipment takes place
- the young person is absent/fails to make themselves available for the installation of the electronic monitoring equipment on a second occasion
- the young person threatens or commits physical assault against monitoring staff
- the young person withdraws consent to installation of the electronic equipment.

Less Serious Level

Violation occurs when:

- one or more absences from the curfew address amounting to a period of two hours or more but less than a whole curfew period
- a second series of one or more absences from the curfew address, amounting to a period of two hours or more but less than a whole curfew period
- any tamper violation, or second tamper takes place, apart from removal of the equipment fitted to the young person or damage causing non-functioning of any part of the equipment.

NB In respect of bail curfews only, any absence exceeding 15 minutes is usually reported by EMS to the Police within one hour of the violation occurring.

4.5 Where EMS has substantiated evidence that a less or more serious level violation has occurred they will notify the YOT within three working days via secure email an Agency Notification Report (see Appendix B), to the YOT worker asking what action is to be taken. The YOT must reply, by completing the relevant section of the Agency Notification Report (see page four, Appendix B) within two days.

4.6 For an initial and second less serious level violation, the YOT should send a standard warning letter to the young person within one working day of the incident coming to notice unless the YOT manager or their designated officer use their discretion not to. The YOT will complete and return (via secure email) page four of the Agency Notification Report (see Appendix B) and a copy of the warning letter within two days from the reported violation. For contact details see para 4.14 below.

4.7 For a more serious level violation or a third less serious level violation, the YOT must take breach action unless a decision is made by the YOT manager or their designated officer not to do so. If no breach action is to be taken the YOT must complete page four of Appendix B that informs EMS of the decision For contact details see para 4.14 below.

NB The process allows two warnings for less serious violations prior to breach action. However, where a more serious violation action occurs then breach action is to be taken immediately.

4.8 A note must be entered onto the young person's electronic file detailing why the decision was taken not to instigate breach action. In addition, the YOT should keep a central record of all such decisions not to take breach action, and the reasons for these decisions, in order that this information may be shared with the Youth Court User Group or other appropriate body, when necessary.

4.9 If the decision is to take breach action then the case must be listed at court and the YOT will complete the relevant section of Appendix B and

send to EMS via secure email or fax informing them of the action, request a breach pack and advise of the date of the court hearing.

- 4.10 The YOT will serve the summons and lay information on the young person either in person or by 1st class post to the last known address.
- 4.11 Where the young person's whereabouts are unknown, the YOT will apply for a warrant from the court to ensure that the young person is arrested and placed before the court at the earliest opportunity.
- 4.12 When the case is dealt with by the court the YOT will, within 24 hours, notify EMS via secure email or fax of the outcome by completing the relevant section of Appendix B. All adjournments are to be communicated via secure email. In the event of a not guilty plea the YOT are to advise EMS within three days of the hearing and request Section 9 witness statements and EMS staff availability for the trial. EMS is to provide the YOT with the relevant witness availability within seven working days of the YOT's request.

Once the trial date is set then the YOT must telephone and send written notice to the EMS court team of the staff required to attend the trial to give evidence. For contact details see para 4.14 below.

Upon receipt of any S9 statement from EMS the officer appointed under 4.13 below, is to ensure that the S9 statement is served promptly on the defendant, or his representative, under the S9 procedure, thereby seeking to excuse the attendance of the witness where that evidence is not to be challenged. In the event that the S9 statement has not been challenged then the officer is to notify EMS and de-warn the witness to prevent his unnecessary attendance.

- 4.13 The YOT should appoint an officer to take responsibility for general liaison with the local Service Development Officers (SDO) (Norwich areas) or Development Managers (Manchester areas) concerning electronic monitoring. The YOT operational manager responsible for court services may be the most appropriate officer to take on this role.
- 4.14 EMS court teams and customer liaison contacts are split within the region as follows.

EMS

EMS Manchester Control Centre: Open 24 hours every day

Currently monitoring the following areas in England and Wales:

- North East
- North West
- South East
- South West
- Yorkshire/Humberside
- East Midlands

Contact (for all enforcement notifications)

Email: emsenforcement@ems.co.uk.cjism.net

General enquiries

Email: controlcentre@ems.co.uk.cjism.net

Tel Number: 0161 862 1753

EMS Norwich Control Centre: Open 24 hours every day

Currently monitoring the following areas in England and Wales:

- Wales
- London
- East of England
- West Midlands

Contact (for all enforcement notifications & general enquiries)

Email: Breachdept@ems.co.uk.cjism.net

Tel number: 08080 965124

5. Responsibilities of EMS

- 5.1 Where a court makes any order or bail decision or a YOT/Secure establishment make a licence condition requiring electronic monitoring, EMS will install the monitoring equipment during curfew hours and no later than midnight on the second day when the curfew is operating. For subjects under 17 a responsible adult must be present at the installation visit which could be a responsible adult provided by the YOT.
- 5.2 EMS will make 3 attempts to install monitoring equipment. Where EMS are unable to monitor the curfew due to a lack of access to install equipment, unsuitability of premises or any other reason they will inform the YOT by the following working day in order that they can take immediate revocation or breach action.
- 5.3 Where a less serious or more serious violation has occurred EMS will conduct an investigation. Once verified the EMS Monitoring Enforcement Team will notify the relevant YOT by secure email or fax within the timescales set by the MoJ - i.e. within three working days from the relevant violation date.
- 5.4 In ISS cases the EMS monitoring Special Enforcement Team will provide case managers with a report on a daily basis should any violations occur.

NB: Where the breach is in relation to bail it is the responsibility of the police and Crown Prosecution Service (CPS) to take breach action. If the young person is subject to ISS this information will be included in the daily non-compliance report issued by EMS.

- 5.5 Where the decision by the YOT is to take breach action, EMS will send a breach pack in relation to the alleged violations to the YOT within three working days of the YOT request.

A breach pack contains:

- statement of facts in relation to the alleged violations, including:
 - computerised curfew activity reports
 - visit reports
 - telephone logs
 - court order/notification (if requested)
 - variation order (if requested)
 - any other documents relevant to the case.
- 5.6 Within three days of a not guilty plea the YOT will contact EMS and request Section 9 witness statements and diary availability of witnesses for the trial date. EMS will ensure that Section 9 witness statements are provided as soon as possible. EMS witnesses will attend trial dates to

give evidence unless de-warned where their statement is not challenged under the S9 procedure.

- 5.7 Where a young person is on a stand-alone YRO Curfew requirement EMS will inform the YOT when it assesses that court action is required. This may be to vary or revoke the order but more usually it will be regarding enforcement action. It will be the responsibility of EMS to lay information to court, book a hearing date, prepare a breach pack for the YOT and provide witnesses where required. Only EMS and not the YOT is also able to withdraw the case prior to court however YOTs may withdraw cases at court where the interests of justice are served.
- 5.8 Unless it is assessed as impractical or unsafe to do so, the electronic monitoring of the young person will continue in the period between breach action being taken and the resolution of the case. This will help inform the court's decision about the benefits of renewing the condition if the breach is proved.
- 5.9 EMS will ensure that a representative attends youth court user group meeting where they have been informed that issues related to electronic monitoring and requiring their input are on the agenda, and that there is a named officer to deal with YOT liaison regarding electronic monitoring.

6. Young people in local authority accommodation

6.1 There may be a number of occasions when a young person is accommodated by the local authority usually where an appropriate address cannot be established or where the YP is high risk or needs.

For young people subject to bail, remand to local authority accommodation or a looked-after child, it is the responsibility of the local authority (this can be via the YOT) to inform EMS of the address once this has been determined and any subsequent change to that address.

For young people subject to YRO with a Residence Requirement or Local Authority Residence Requirement it is the responsibility of the YOT to ensure that EMS are aware of the address and any subsequent changes.

7. Review

- 7.1 This protocol will be superceded by the development of a new stakeholder protocol led by the EM contract team and EMS. The YJB will be inputting into the new protocol following consultation with YOTs.

8. Signatures



Name: Andy Homer
Position: Operational Support
Dated: 23rd January 2015
On behalf of EMS Monitoring



Signed:
Name: Lucy Dawes
Position: Director of Operations
Dated: 12/01/2015
On behalf of The Youth Justice Board