

Electronic monitoring in the youth justice system of England and Wales

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We hope that our devoted work to use their insight in support of developing the criminal justice system will show in this report and it will contribute to discussion around the electronic monitoring of children. We also hope that it will contribute to developing child approach in EM systems in the future.

Leeds, October 2021

Eszter Párkányi

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Acronyms

CBO	Criminal Behaviour Order
CI	Civil injunction
CPS	Crown Prosecution Service
DTO	Detention and Training Order
EM	electronic monitoring
EMS	Electronic Monitoring Services
FMO	Field Monitoring Officer
HDC	Home Detention Curfew
ISS	Intensive Supervision and Surveillance
ISSP	Intensive Supervision and Surveillance Programme
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act 2012
MoJ	Ministry of Justice
RF	Radio-frequency
UNCRC	United Nations Convention on the Rights of the Child
YJB	Youth Justice Board
YOT	Youth Offending Team
YOS	Youth Offending Service
YRO	Youth Rehabilitation Order

Introduction

“I think, look, the picture is far greater than just what can be done about the effectiveness of tagging, it’s about how you genuinely get through to these children so that they don’t return to this. And they are children at the end of the day.” (FMO, EMS)

Electronic monitoring of children (youth EM) is relatively widely used in England and Wales. The system uses the same technology as adult EM and operates in similar ways. At the time of the research, little account has been taken of children’s best interests in either law or policy. Differences in the way EM operates for children as opposed to adults tend to arise through practice rather than regulation which is fragmented. The research found three areas where changes should be considered: legal restrictions; monitoring procedures; and violations and breach procedures. All of these areas need to be reformed to ensure that EM operates in ways which consider children’s best interests. Current good practice is limited to the procedures which involve specialist services in the form of Youth Offending Services (YOSs). Despite recent legislation, there is a pressing need for an overarching vision for using EM with children and the expansion of specialised services to support its effective and appropriate use.

Although the Sentencing Act 2020 largely consolidated previous legislation it may bring some changes to the way in which EM may be used with young people. Subsequently, a sentencing White paper *A smarter approach to sentencing* (MoJ, 2020b) was published which proposes legislative changes affecting the use of EM with children. Some of these have been included in the Police, Crime, Sentencing and Courts Bill 2021. While the changes and proposals have shaped a child-focused narrative around the current practice, they are relatively minor and do not amount to reform in this area. In our recommendations, we will propose amendments to the law and policy which we believe would improve the balance among the procedural elements of the system.

The report is based on research in 2019 and 2020. Interviews were conducted with 24 stakeholders involved in the operation of EM including representatives from the Youth Justice Board (YJB), Youth Offending Teams (YOTs), Electronic Monitoring Services (EMS) and the Ministry of Justice. YJB and YOS participants had specialist knowledge of children in conflict with the law. These interviews were supplemented by administrative data on 90 cases of EM being used with children from two YOSs. We also interviewed three children subject to EM and conducted focus groups with 28 school children aged 15-19. Finally, we observed a Field Monitoring Officer (FMO) to better understand operational practices.

International children’s rights requirements, standards and guidelines provide a context to this research, despite the fact that EM has not specifically been addressed. However, standards relating to youth justice, non-custodial and crime prevention measures point to an appropriate approach and outcomes for community-based measures using EM. Beyond the requirements of the UN Convention on the Rights of the Child (UNCRC), a variety of UN guidelines are considered,

including the Beijing Rules,¹ the Tokyo Rules,² the Riyadh Guidelines,³ the recommendations of the Economic and Social Council (ECOSOC). Relevant guidelines in the European context include regional regulatory instruments and recommendations of the Council of Europe (CoE) and the European Union (EU).

Although EM is used to monitor bail conditions, this research focuses primarily on the use of EM with community measures and early release because it draws heavily on the views of YOT staff who are not always involved in the supervision of EM bail. The research was also carried out at a time when EM predominately used radio-frequency (RF) technology to monitor curfew requirements. The use of GPS was on the point of being introduced for children, so we took the opportunity to discuss it with our interviewees. However, the police had been using GPS voluntarily for some time, and a pilot of EM with gang related crime was taking place in London, making it difficult to separate comments about the different ways in which EM using GPS was or maybe used.

The report is structured as follows: first, the legal and policy foundations of EM and the role of the different actors in the system are introduced, followed by an analysis of how these fulfil key children's rights requirements concerning: i) the proportionate use of justice measures as an alternative to the deprivation of liberty, and for given purposes and target groups; ii) procedural requirements for assessing children's needs; iii) how children's needs are addressed when EM is used; and iv) the procedural and social implications of using EM for children, in the context of child-specific goals of crime prevention, rehabilitation and integration. Children's views from focus groups are discussed with particular reference to the implications of EM and specifically how children subject to EM may be integrated into School.

¹ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by General Assembly resolution 40/33 of 29 November 1985

² United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules) Adopted by General Assembly resolution 45/110 of 14 December 1990

³ United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), adopted and proclaimed by General Assembly resolution 45/112 of 14 December 1990

1 Electronic monitoring in the youth justice system

1.1 The youth justice system of England and Wales

England and Wales has a specialist youth justice system working with children under 18 and with the principal aim to prevent offending (s.37 Crime and Disorder Act 1998).⁴ Law and policy outline different paths to achieve this aim, depending on the (alleged) offence and children's circumstances. The Youth Justice Board, a non-departmental government agency accountable to Parliament, oversees the youth justice system. The system includes Youth Justice Services (YOS), youth courts and closed secure facilities dedicated to children. Courts, police stations and other facilities aim to physically separate children from adults (s.31 Children and Young Persons Act 1933). Specialist training is often a requirement of staff who work with children, for example, magistrates who sit in youth courts (Slapper and Kelly, 2013: 246-248). However, children may be dealt with by the adult courts when they are accused of serious offences or co-accused with adults (s.250 Sentencing Act 2020).⁵ Despite the existence of a specialist youth justice system any criminal justice agency may come into contact with children. Consequently, all criminal justice agencies are considered actors of the youth justice system for the purposes of this research and in line with Council of Europe recommendations (Rec (2003)20, I.).

The current youth justice policy considers everyone under 18 a 'child' complying with international requirements (Art. 1, UNCRC), which implies equal standards of protection for the every child irrespective of age. However, children over 16 years are considered legally independent in various aspects of everyday life in the UK including employment rights and independent living and they are treated as adults in these areas. Consequently, there is no requirements for parents of children over 16 to be involved in EM potentially leaving children without parental advice and support.

England and Wales has a relatively long history of using EM in the youth justice system compared to other European jurisdictions. The youth justice system introduced EM to monitor curfews using radio-frequency technology in 2001, when curfew orders were made available to children under 16. The use of EM was extended to Detention and Training Orders in 2002 and bail in 2003 and was expanded again with the introduction of Youth Rehabilitation Orders (YROs) in 2009 which allowed for EM to be used for intensive supervision (Johns et al., 2018). At the time of writing, EM may be used to monitor conditions of a number of youth justice measures including bail, remand to local authority accommodation, YROs and DTOs. The Sentencing Council (2017) advises that EM should be used when intensive supervision is required to both control and support children and when there is a 'high likelihood of re-offending or a very high risk of serious harm'. Yet, somewhat controversially, EM is also used to monitor civil measures responding to anti-social behaviour. This report, however, focusses on EM when used as part of a community sentence and early release. The regulation and practice of pre-trial and civil use of EM will only be referenced where appropriate.

⁴ In the terminology of the Youth Justice Board, 'children' are those below 18 years, in line with the approach of the United Nations Convention of the Rights of the Child (UNCRC). While those between 14 and 17 years are often referred to as young people, in England and Wales (Easton and Piper, 2008:237), in this report we will refer to all individuals under 18 years as 'children'.

⁵ A defendant younger than 18 years must be tried 'on indictment' in homicide cases. The court may try a case on indictment in further serious cases that are punishable with at least 14 years of imprisonment or cause death by careless driving while under influence,⁵ or if the crime was committed jointly with an adult and trying them both so is in the interests of justice (Slapper and Kelly, 2013: 246-248).

1.2. EM measures and their legal foundations in the youth justice system

The legal framework for EM varies across the different youth justice measures because EM is used to monitor requirements of youth justice sanctions and measures rather than being a specific measure itself. As a result, EM works differently for different measures. Fair and proportionate use of these measures is typically ensured by limitations on the intrusiveness and onerousness of interventions based on the assessed risk posed by the child. The only exception to this general approach is the age limit on imposing EM monitored bail conditions. This section introduces the regulatory framework for EM for civil and youth justice measures.

1.2.a *Civil injunctions (CIs) and Criminal Behaviour Orders (CBOs)*

CIs and CBOs are ‘civil measures’ responding to antisocial behaviour, therefore are not perceived as part of the youth justice system. However, due to the procedural interconnectedness between the response to antisocial behaviour and youth justice, they are relevant for understanding the uses of EM in England and Wales. CIs and CBOs are hybrid orders that combine elements of civil and criminal law. They are imposed according to civil law but non-compliance is dealt with under criminal law and may result in criminal sanctions.

EM can be imposed as part of CBOs and after breach of CBOs and CIs. In relation to breach, EM may be imposed to increase restrictions within the civil framework (CIs) or because the breach amounts to a criminal offence (CBOs). In CI cases, curfew requirements are monitored by EMS alongside supervision by local YOTs with the aim of changing patterns of anti-social behaviour (YJB, 2014b). EM may be imposed for a maximum of six months as part of a supervision order (s2(6), Schedule 2, Anti-social Behaviour, Crime and Policing Act 2014). Breaching a CBO is a criminal offence (s339 Sentencing Act 2020). Accordingly, the Youth Court may impose all available youth measures including YROs and DTOs as appropriate. The general rules apply for imposing EM in these cases (see below and YJB, 2014b).

1.2.b *Pre-trial measures*

1.2.b.i *bail*

Everyone has a right to bail in England and Wales (Campbell et al., 2019: 245). The law does not state that conditional bail is a direct alternative to custody, although s.3AA(3) Bail Act 1976 limits the use of EM to imprisonable offences attracting sentences of 14 years or more. However, it also enables EM to be used when there is a history of offending on bail. Although these offences must also be imprisonable, this category includes a very wide range of offences of varying severity leaving open the potential for EM conditions to be imposed when custodial remands are very unlikely. Special requirements exist in bail law when dealing with children including that their welfare (s44 Children and Young Persons Act 1933) and best interests under Article 3 of the UNCRC (CPS, 2019) must be considered but nothing is said about the purpose of EM. YJB policy provides a strong steer that remands to secure facilities and local authority accommodation should only be used in exceptional circumstances and other options should be considered first. These include bail supervision and support and intensive supervision and surveillance, which may include mandatory curfew conditions monitored via EM.

A requirement monitored by EM may only be imposed once children have reached the age of 12 (s.3AA(2) Bail Act).⁶ The existence of this age limit may be interpreted as a signal that EM

⁶ While the regulation restricts the use of other measures for younger children (see, for instance at YRO and DTO), these do not relate specifically to EM.

should never be used for children under 12, despite it not being prohibited for other measures. Further restrictions imply that EM is intended to be used to manage higher risk and the need for additional supervision. Its conditions include that i) the alleged offence or offence is of serious or violent nature, punishable with at least 14 years of imprisonment, and ii) persistent offending (s.3AA(3) Bail Act). Bail may be granted unconditionally or conditionally to support curfew requirement or as part of intensive supervision (YJB, 2019e).

1.2.b.ii) remand to local authority accommodation

If bail is refused, children may be remanded to a local authority accommodation and this should be considered before the use of secure youth detention (CPS, 2019; s.91(3) LASPO). The type of local authority accommodation used varies and includes residential care and remand fostering, thereby potentially resulting in EM effecting of other children living in the same accommodation. EM may be imposed to monitor compliance with bail conditions when children are charged with violent or sexual offences or offences which attracted sentences of imprisonment of at least 14 years for adults or are charged with imprisonable offences and have a history of offending on bail *and* EM is deemed to be suitable and available based on the YOT's reports (s.92 LASPO).

1.2.c Youth Rehabilitation Order (YRO)

Youth Rehabilitation Orders (YROs) are community sentences to which sentencers can attach requirements from a menu of options.⁷ EM may only be used in conjunction with at least one other youth rehabilitation requirement (s. 185(4) Sentencing Act 2020). EM is most often used to monitor compliance with curfew requirements, but it can also be imposed to monitor exclusion or attendance centre requirements (s.44(3) Schedule 6 Sentencing Act 2020).⁸ YROs are available for most offences and seriousness and persistence are key criteria for use. For example, unless offences are imprisonable, children below 15 years must be persistent offenders, while children below 12 should be serious repeat offenders (s.1(4)b-c).

1.2.d Detention and Training Order (DTO)

DTOs are hybrid sentences consisting of two consecutive types of intervention: a period of deprivation of liberty followed by an equivalent period of community supervision (s236 Sentencing Act 2020).⁹ EM monitors the community element and may be used in two ways: (i) as part of the intensive supervision and surveillance (ISS) requirement or (ii) as a separate requirement in cases where ISS is unsuitable, for instance it does not serve to rehabilitative children (MoJ, 2018). The law allows DTOs to be imposed upon children 12 years and over (s.234(1)a Sentencing Act 2020)¹⁰ but children under 15 must be persistent offenders (s.235(3) Sentencing Act 2020).

EM is not a compulsory part of the sentence and decisions to use it are made extra-judicially. The community element of DTOs is not early release, but instead the 'next step' in a

⁷ Available conditions are: an activity requirement; a supervision requirement; in a case where the offender is aged 16 or 17 at the time of the conviction, an unpaid work requirement; a programme requirement; an attendance centre requirement; a prohibited activity requirement; a curfew requirement; an exclusion requirement; a residence requirement; a local authority residence requirement; a mental health treatment requirement; a drug treatment requirement; a drug testing requirement; an intoxicating substance treatment requirement, an education requirement (s.1, Criminal Justice and Immigration Act 2008).

⁸ The Police, Crime, Sentencing and Courts Bill 2021 proposes the introduction of an 'electronic whereabouts monitoring requirement' i.e. trail monitoring when wearers' movements are tracked.

⁹ The detention part can be implemented in a Young Offender Institution (YOI), a Secure Training Centre (STC) or a Secure Children's Home (SCH).

¹⁰ The age limit was implemented in the Sentencing Act 2020.

predetermined intervention programme. Therefore, requirements are imposed via a ‘*notice of supervision*’ and not a licence (see under 1.2.e about HDC). The requirements are proposed by YOTs and approved and issued by Governors of the Young Offender Institution (YOI) or the Placement Team of the Secure Training Centre (STC) or Secure Children’s Home (SCH) (MoJ, 2018). Children may also be granted early release from the custodial element of the sentences when they are subject to EM curfews until their original release date.

1.2.e Home Detention Curfew (HDC)

In line with the adult policy, children sentenced by adult courts under Section 250 of the Sentencing Act 2020¹¹, i.e. those convicted of serious violent offences, may be released on Home Detention Curfew (HDC). HDC allows detainees to be released up to 135 days before their regular early release (s.246 Criminal Justice Act 2003). The HDC process for children mirrors the adult procedure (see in Hucklesby and Holdsworth, 2016). Children may be held in three types of secure establishments, Youth Offender Institutions (YOI), Secure Training Centres (STC) or in a local authority Secure Children’s Home (SCH), and the decision making powers and the appeal process are allocated to the Governor of the YOI and the HMPPS Youth Custody Service (YCS) Release and Resettlement Team depending on the type of custodial institutions they are detained in (4.11.2 and 4.11.3 MoJ, 2020a).¹²

1.3 Policies

There is no comprehensive policy on the use of EM with children. Instead, policies and guidance are fragmented across different policies and organisations including Her Majesty’s Prison and Probation Service (HMPPS), the Youth Justice Board, the Crown Prosecution Service (CPS) and the Sentencing Council. As a result, policies are opaque and good practice is less likely to be shared. This section provides an overview of relevant policies and the issues raised by them. The analysis is organised around three key themes: i) the restrictions EM supports; ii) legal and policy safeguards to ensure that EM is used when necessary, suitable and appropriate; and iii) other requirements which are in place to protect children.

1.3.i Types of restrictions supported by EM

The law enables EM to be used to monitor a broad range of requirements, but the youth justice policy is unclear about the way EM should be used to monitor the different requirements. While instructions of curfew monitoring are fully integrated in YJB policy documents, guidance on location monitoring is referenced as an external resource and it is not linked to the general youth justice policy (YJB, 2019c; YJB, 2019d; YJB, 2019e). Table 1 compares the legal references and the policy concerning EM and shows that only CBO policy explicitly makes reference to monitoring exclusion zones in addition to curfews. The law restricts the use of EM to curfews only in the case of civil injunctions, whereas all forms of EM can be used as requirements of community orders and all but trail monitoring can be imposed in bail cases.¹³ The gaps in the way the statutory mandate should be implemented in practice for DTO and the use of location monitoring are meant to be filled in by the applicable policies of the Ministry of Justice. The latter has been made available in youth justice in all youth measures where curfew monitoring is available.

¹¹ Previously s.91 of the Powers of Criminal Courts (Sentencing) Act 2000.

¹² The Youth Custody Service is part of Her Majesty’s Prison and Probation Service responsible for managing all youth secure estates.

¹³ Trail monitoring is likely to be available on the successful passage of the Police, Crime, Sentencing and Courts Bill 2021 through Parliament.

Table 1. Statutory and policy reference to electronic monitoring

	STATUTE	(YOUTH) POLICY
BAIL	Secures ‘a person's compliance with any other requirement imposed on him as a condition of bail’ (s.3(6ZAA&6ZB Bail Act).	The policy addressed both modalities of EM (a condition and as part of ISS) as ‘electronically monitored curfews ’ (YJB, 2019e).*
CIVIL INJUNCTION	As part of a supervision order, EM may be imposed for securing ‘compliance with the curfew requirement ’ (s.6(1), Schedule 2, AbCP Act, 2014).	The policy suggests that EM is meant to control curfews (YJB, 2014b).
CBO	EM may be imposed according in line with the rules specified in youth justice measures (s.30 (1-2), AbCP Act, 2014).	The policy suggests that EM is meant to control curfews or exclusion zones (YJB, 2014b).
YRO	EM means a “requirement for securing the electronic monitoring of the offender's compliance with other requirements imposed by the order during a particular period” (s41 Sentencing Act 2020). The Schedule further implies that an EM requirement can only be assigned on a curfew, an attendance centre requirement or an exclusion requirement (s.44 (3) Schedule 6 Sentencing Act 2020).	The policy explains that EM should be used when ‘the child is subject to a curfew and is tagged to ensure compliance’ (YJB, 2019d).*
DTO	[no statutory reference]	<i>[EM may be used to monitor curfews, exclusion zone, attendance at designated place or trail monitoring (MoJ, 2021b).</i>
HDC	EM can be used to monitor compliance with another condition of release or their whereabouts (s.62(5A), Criminal Justice and Courts Services Act 2003	<i>[People released early from prison on HDC are subject to an electronically monitored (EM) curfew and/or location monitoring of exclusion zones, attendance at a certain activity or trail monitoring (4.5.6 MoJ, 2021a).]</i>

*The text references the HMPPS guidance but URL links to the referenced document are currently not working.

Location monitoring using GPS was introduced in youth justice at the end of 2019 in London and rolled out to the rest of England and Wales in the first part of 2020 (Docherty, 2019), primarily to monitor exclusion zones, to support curfews and other requirements, and assist with addressing serious violence and drug dealing and exploitation by the ‘County Lines’ (see further under 1.2.b). Location monitoring is designed to monitor a) compliance with exclusion zones, b) attendance at specified activities, c) children’s whereabouts (trail monitoring), d) curfews, imposed alongside location monitoring requirements or e) a combination of these (HMPPS, 2019). HMPPS guidance allow these requirements to be used as bail conditions, in conjunction with remands to local authority accommodation, YROs, DTOs, and HDC with the exception of trail monitoring which has only been made available for DTO and HDC (Docherty, 2019). In addition, the HMPPS suggests that GPS-specific principles and considerations should further restrict the use of this tool:

“The principles stipulate that location monitoring is not to be used to toughen sentences, but rather should be used as an additional protective and/or supportive factor, or as a viable alternative to custody. It is also emphasised that the vulnerability of the child, including learning needs and health must be taken into account before considering location monitoring.” (Docherty, 2019).

The guidance emphasises that YOTs should recommend location monitoring requirements only if they consider them to be necessary, proportionate and supportive. However, it is only guidance, leaving open the potential for location monitoring to be used unnecessarily and disproportionately, especially for DTOs and HDC where statutory boundaries are not specified.

1.3.ii Legal safeguards

The purpose of legal safeguards is to place constraints on the use of measures by limiting their scope to avoid disproportionate and harmful use. As an example, the regulation of YROs and DTOs restricts the target group by prohibiting their use under a certain age and type of offending. However, safeguards for the use of EM do not address technological aspects of monitoring. For example, regulations do not specify whether RF or GPS should be used or whether other types of monitoring should be available beyond wearable devices. The lack of guidance opens up the potential for inappropriate use of GPS and other technologies. Apart from age constraints, the most often used safeguards are restrictions on curfew times and the duration of orders. These vary for different modalities and mirror those for adults (see Hucklesby and Holdsworth, 2016) raising questions about the extent to which children's interests and needs are taken into account. For civil injunctions, curfews may be imposed for up to six months, while EM may be used for three months for exclusion requirements (s.20(3), Schedule 6 Sentencing Act 2020) and 12 months for curfew requirements of YROs (s.18(5) Schedule 6 Sentencing Act 2020). There is no limit for bail and DTOs and an upper limit for HDC of 135 days. Attendance centre requirements are specified in hours rather than a maximum duration for the device to be worn, which may be disproportionate if devices need to be worn for long period of times. Maximum curfew periods also align with those for adults, with curfew periods between two to eight hours for civil injunctions (s.5(3)b), Schedule 2, Anti-Social Behaviour, Crime and Policing Act 2014); two to sixteen hours for YROs (s.18(4), Schedule 6 Sentencing Act 2020) and a minimum of nine hours and up to 24 hours for HDC (s.253(2) Criminal Justice Act 2003).

1.3.iii Integration of EM into the youth justice policy

EM should fit into the 'Child First' approach of the Youth Justice Board that aims to promote children's rights and to tailor justice responses to children's needs (YJB, 2019f). This goes beyond the statutory aim of preventing offending, seeking to ensure that YOS consider children's best interests and promote their 'strengths and capacities as a means of developing their pro-social identity for sustainable desistance' (YJB, 2019f). The policy is underpinned by a diversion-oriented youth justice model to minimise offending and encourage community integration. The YJB protocols suggest that EM, and more specifically curfew monitoring, is envisaged as a tool for implementing this approach, but there is no comprehensive policy on target groups and the goals of EM. However, developments in EM have targeted two groups specifically, serious and persistent offenders and children involved in County Lines.

The Intensive Supervision and Surveillance Programme (ISSP) was introduced in 2001 (Easton and Piper, 2008: 431) for serious and persistent offenders aged 15 to 17. It combined intensive supervision with compulsory behavioural requirements including the use of curfew monitoring. EM remained a core element of ISSP despite research suggesting that it was no 'more effective at reducing the frequency of offending than human tracking' (YJB, 2005: 8) and concerns about insufficient levels of surveillance and the lack of potential to protect the public (Ellis et al., 2009). In its current form, ISS is a condition of bail or a requirement of YROs and DTOS which can be imposed for between 90 to 180 days as a 'direct alternative to custody' (YJB, 2019d). The programme includes an intensive range of interventions targeting five areas: education, training or

employment; restorative justice; offending behaviour; family support; and interpersonal skills. Children are required to maintain close contact with the YOT facilitated by the provision of mobile phones. Contact with supervisors must be at least two contact hours per day in the first three months and weekly thereafter. YJB policy and our interviewees consider EM to be a standard element of ISS, except when there is a danger of domestic violence. During bail ISS, the presumption of innocence is respected and work on tackling offending behaviour is prohibited.

'County Lines' represent a relatively new form of criminal exploitation of children in the UK. They are drug supply models for distributing Class A drugs, primarily cocaine and crack cocaine to towns and rural areas using children or vulnerable individuals as transporters and dealers (Windle et al, 2020). Children involved in county lines often spend several weeks in secluded properties or stay in apartments of local drug users for the purpose of operating drug dealing (Coomber and Moyle, 2018). This activity exposes them to a wide range of harmful experiences and trauma, which affect their health and development (Windle et al, 2020). The variety of dangers are inherent in county lines resulting in them being one of the top priorities for the YJB (YJB, 2019f: 10), and a target group for location monitoring (GPS). Location monitoring may be used to monitor exclusion zones designed to keep children away from areas in which they have been offending and from their exploiters.

1.4 Previous research

Research on the use of EM with children is limited in England and Wales. As far as we are aware research has only been undertaken in the pre-trial context. The first project which focused on children was the evaluation of the bail pilot in Manchester and Norwich in 1998-9 (Airs et al., 2000). During the pilot, EM was imposed upon 44 children (40 male and four female) aged between 15 and 17 who were accused of mainly property or violent offences, such as burglary and robbery. The research was based on court records and stakeholder interviews including judges, magistrates, defence lawyers, and individuals on EM and their families. It found that EM used to monitor bail curfews was used as an alternative to custodial remands but also found evidence of net-widening.

Cassidy and colleagues (2005) conducted further research on children remanded on bail or to local authority accommodation who were subject to EM curfew conditions. The research was based on data provided by 28 YOTs and interviews with YOT workers and children (15 males). The study found that EM was rarely used. It also suggested that EM improved compliance with the curfews by providing an excuse not to associate with peers when appropriate support was also provided.

2 The operation of the EM system

The adult's and children's EM system are interconnected. Much of the system is shared but with specialist support provided by YOS for children who are subject to supervision requirements alongside EM. This section provides an overview of the organisations' tasks and interagency working.

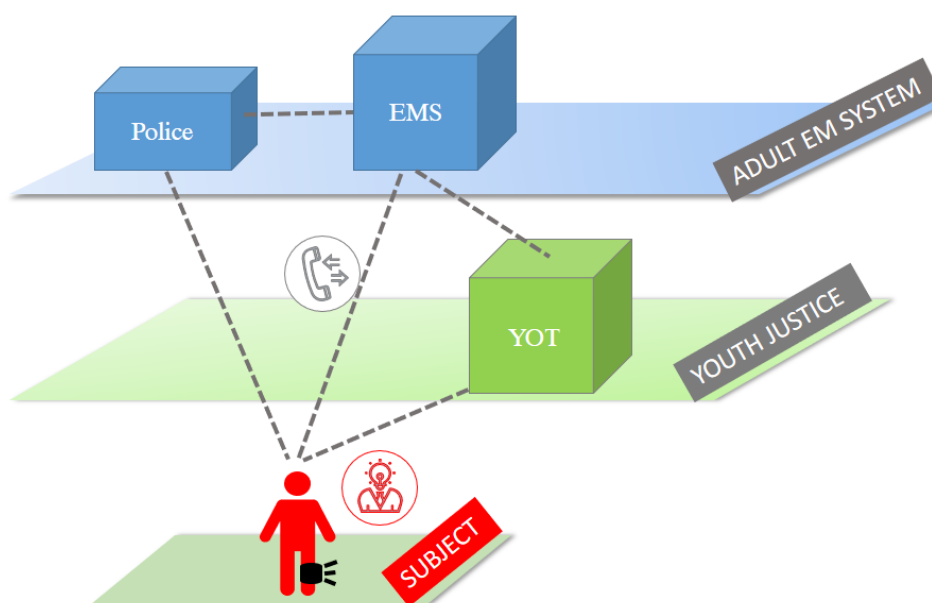


Figure 1. The EM system in England and Wales

2.1 Actors

Courts Youth courts have jurisdiction over children's cases, unless the case qualifies for transfer to an adult court (Crown Court) due to the seriousness of offences. Youth courts are presided over by benches of lay magistrates who are supported by legal advisors. They may impose orders involving EM as a response to breach of CBOs and CIs, as conditions of bail or as requirement of YROs. Courts in England and Wales are not involved in the decision making concerning EM supporting DTOs or HDC.

YOT YOTs of the local Youth Offending Services (YOS) are responsible for assessing the suitability of EM, supervising children in the community, coordinating other court requirements and investigating and initiating breach. YOTs are multi-agency teams funded by their statutory partners - local authorities, police, National Probation Service and health (s.38(1)-(3) Crime and Disorder Act 1998). Due to the multi-agency working, YOS have developed fora for flagging problems and referring children involved in justice measures to relevant service providers. One YOS may establish specialist teams including court and diversion teams.

Within YOS, children subject to EM are typically dealt with by youth justice officers, who are required to meet specific higher education requirements. Professional development of staff is

organised by the YOS and supported by six regional 'Developing Practice' fora.¹⁴ YOS staff do not routinely receive training on EM. Instead, our interviewees reported learning by doing or bringing knowledge from previous roles in, for example, adult probation.

Police The police are responsible for monitoring bail conditions if supervision by YOS was not imposed alongside EM. Their role comprises receiving, assessing and responding to violation reports received from EMS. The police may arrest children if it appears that a breach of bail conditions has occurred.

EMS Electronic Monitoring Services (EMS) implements EM and provides technical support. The service is operated by a private company (Capita Business Services Ltd.) contracted by the Ministry of Justice. EMS is responsible for fitting and removing the devices and attending individuals' homes to check and change equipment, investigate violations and provide information about potential breaches to secure establishments, YOSs and the police. The monitoring centre of EMS is available for monitored individuals and organisations involved in EM 24 hours a day, seven days a week. EMS collects the information about violations and informs YOTs or the police about potential breach cases.

Other organisations A variety of organisations and services may be involved in the implementation of EM measures depending on children's circumstances including schools, children's homes, children's services, semi-independent local authority accommodation attendance centres.

2.2 Cooperation

YOTs work with many agencies sharing information and responsibilities. Multi-agency working happens at two levels: within and between the teams. Teams consist of statutory and non-statutory partners. Statutory staff are key to liaison between the YOS and parent organisations such as the police or probation. Multi-agency panels are used to discuss individual cases, share information and propose follow-up. Children temporarily placed out of their home area are co-managed by both YOS.

The cooperation between EMS and YOS was reported to be limited to sharing technical information to maintain the case records of both organisations. While participants from both organisations thought that cooperation between them worked well, they agreed that there was room for improvement in the information flow between the two organisations. The appointment by EMS of named regional contacts was highlighted as good practice. YOS workers commented that breach information was unclear and difficult to decipher. YOS staff were concerned about the length of time between violation events and being notified of them. Breach policies and contracts specify actions and require that violations meet agreed thresholds before being reported to supervising officers. Whilst YOT staff have the option to contact EMS to inquire about non-compliance, they are unlikely to do so if there are unaware of any issues. One youth justice officer suggested that more regular reporting of violations would be helpful to address problematic behaviour before it escalates. EMS staff reported that receiving feedback from YOTs about breach outcomes would improve their administration. This example confirms broader findings that most communication between EMS and YOTs is technical and, whilst complying with contractual requirements, falls short of what might be viewed as desirable and helpful.

¹⁴ The seven regions (number of YOTs participating): London (31); Midlands (19); North East, Yorkshire and Humberside (26); North West (19); East and South East (25); South West and South Central (17); and Wales (17). Source: <https://www.gov.uk/government/collections/youth-offending-team-contact-details> (accessed: 17/01/2022).

3 The purpose of EM

The purpose of EM is not set out in law or policy. Although the relevant legislation (Bail Act 1976 and Sentencing Act 2020) states that it is used to monitor compliance or wearers' whereabouts this is vague and unhelpful to decision-makers (Mair, 2005). It could be assumed that the goals of EM align with those of youth justice: to prevent offending by children (s.37(1) Crime and Disorder Act 1998). However, the wide range of organisations involved in EM means that its purpose is defuse and can be multi-faceted, aligning not just with youth justice goals but with those of other organisations (Hucklesby and Holdsworth, 2016). The introduction of location monitoring further complicates the landscape by aiming to protect children as well as reduce offending. Unlike curfew monitoring, policy documents relating to location monitoring restrict the target group (see in Section 4) and limit its use to specific orders. The distinct purpose and the limitations of using location monitoring create a 'twin track' EM policy. This section will introduce the two tracks of EM separately: curfew monitoring first followed by location monitoring.

3.1 Purpose of curfew monitoring

Curfew monitoring was the only form of EM until late 2019, with the exception of a small number of 'special cases' when GPS monitoring was used (Hucklesby and Holdsworth, 2016). Our research has coincided with the roll-out period of location monitoring and it is clear that interviewees' experience was largely limited to curfew monitoring. Interviewees' views about the purpose of curfew monitoring varied but centred around three main themes: providing an alternative to custody; promoting a rehabilitative approach; and justice purposes, such as punishment, restricting movements, managing risk, protecting community safety and collecting information about individuals' whereabouts. In line with the statutory purpose of youth justice, several participants suggested that the purpose of EM is to prevent further offending and provide time to reflect on offending behaviour. However, as one participant explained, the current system did not always use EM in a responsive way:

"[...] I think if they've done a theft from a shop in the daytime, I don't see why they're going on a tag because that doesn't match up but quite often we're told, once they're at a certain level, the tag should just go on as a punishment really, I think it's more of a punitive measure rather than anything to address, like maybe half the time it's not really addressing their offending behaviour, it's just done as a telling off."

Nearly all children in our data were subject to 12 hour overnight curfews from 19.00 to 07.00. This mirrors research on adults (Hucklesby and Holdsworth, 2016) and suggests that little attempt is made to tailor curfew times to children's offending, circumstances or best interests.

While many participants suggested that curfew monitoring is now fully embedded, they commented that the introduction of location monitoring had increased the visibility of curfew monitoring and provided insights to improve its operation.

3.2 Purpose of location monitoring

The HMPPS guidance on location monitoring requires that it has added value i.e. "an additional protective, supportive and/or safeguarding factor" to current purposes of EM or serves as a "viable alternative to custody" (HMPPS, 2019). Policy maker interviewees emphasised the importance of upholding these principles and limiting its use to those involved in serious offending such as County Lines. As a result, use of location monitoring was expected to remain small at around 80-100 children at any one time.

In relation to County Lines, exclusion zones monitored using location monitoring technologies were viewed by participants as a mechanism to keep children away from places linked to their offending and also protect them from repeated victimisation. This reflects longstanding tensions between justice and welfare goals in youth justice. The narratives of participants about the use of location monitoring suggested that children involved in County Lines are seen as offenders who need to be prevented from repeat offending rather than as victims of human trafficking and criminal exploitation. In this context, preventing repeat victimisation is a by-product of efforts to prevent offending rather than a goal itself. In such cases, the welfare role of the youth justice system raises questions about whether safeguarding provides a legitimate reason for using EM, even when it is not necessary or proportionate based on children's (alleged) offending behaviour. Despite the many shared goals and principles of child protection and youth justice, safeguarding sits outside the remit of youth justice. Instead, youth justice policy requires that courts "have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training" (The Children and Young Persons Act 1933 s. 44). Accordingly, youth justice measures should consider and respect children's welfare needs rather than provide suitable responses to them. A YOS Court Team Manager suggested that following this approach, youth justice measures have a primarily punitive purpose. As such, the new purpose appears to contradict the current practice:

"But we've always shied away from saying, "Oh you can heap a child up with requirements, to keep them safe." Because then you're getting to quite a grey area with Social colleagues who would sometimes say put every requirement under the sun onto this child, because then we know they have to go to school, and they have to be in. And we said, "Hang on, you can't use the law like that, that's your job to put a plan together to keep that child safe. We've got to use the law to reflect the seriousness of the offence and the risk of reoffending." (YoS Court Manager)

A second interviewee argued that using EM to protect children creates a misleading impression of safety and does not consider the increased risk of breach:

"I think what some people think is that if they've got a tag on then they have to be in the home between certain hours, so they're not going out, they're not going missing but as we know, they still do! They still can and they end up in more trouble because they've breached their tag and it's because of social issue rather than criminal, I think they get a bit mixed up sometimes." (Youth Justice Officer)

A clear challenge was to communicate to stakeholders' strategies to avoid setting children up to fail as a result of inappropriate use of location monitoring.

4 The target group for EM

The only target groups mentioned in law and policy are in relation to location monitoring using GPS. Consequently, decision-makers have wide discretionary power to shape practices. This section examines current practice and provides information on the use of EM from a range of data sources. Most of the data were gleaned from case records of children subject to EM in two YOS (one in the

North of England and one in London). It provides a snapshot of EM use at a particular point in time. It is not representative of the whole of England and Wales but provides insight into the children for whom EM is deemed appropriate. It suggests that stakeholders identify target groups for EM based on i) the children's characteristics and socio-economic status, ii) (alleged) offences and iii) the measure that EM supports.

The findings need to be treated cautiously because getting an accurate picture of how EM is deployed is complicated by a range of factors. One, EM is relatively little used. About 8 per cent of those subject to EM are children, equating to around 800 individuals at any one time.¹⁵ Two, a significant proportion of those on EM are on bail or subject to single requirement orders which are not supervised by YOTs and are not represented in these data. Three, cases supervised by YOTs are unevenly distributed across the country. Youth justice officers similarly reported differing EM caseloads: varying between 1 and 12 cases at the time of interviews and between 2 and 20 in the last year. Four, different IT systems operate in different YOSs which are not always compatible.

4.1 Individual characteristics and socio-economic status of the child

Data and interviews identified that EM is primarily used with adolescent boys. Our data suggest only four out of 90 children were female. Participants reported that most children subject to EM were in their late adolescence, between 14 and 18. Only Field Monitoring Officers (FMOs) employed by EMS to visit children's residences suggested that EM was fairly regularly used with 12 and 13-year-olds, perhaps suggesting that younger children were unlikely to be supervised by YOS and therefore were absent from our data. Our data sample confirms interviewees' reports: among the 90 children in our sample, 62 were aged 17 years, seven were 16 years and ten were 15 years. Only four children were younger than 15 years. Youth justice stakeholders explained that they rarely considered EM for children below 15 years because of the size of the equipment and the importance of providing a protective intervention for younger children. A YJB representative suggested that location monitoring was particularly unsuitable for those under 15:

"I think we would resist a 13-year-old, 14-year-old, we'd maybe resist using GPS [...] ... I think the very young ones, we try to protect them in other ways. Get Social Services involved, but if that young person, 13, 14, was on the verge of being put in custody then we would probably offer GPS."

It is difficult to draw any conclusions about how EM is used with members of minority ethnic groups because of the small sample, but interviews and data suggested that children on EM in London YOS were primarily of Black or Black and White mixed backgrounds (78% of the YOS caseload). By contrast, the majority of those subject to EM in the YOS in the North of England were White (62% of the YOS caseload). While some participants from the London area suggested that Black children were disproportionately represented on EM, others suggested that it was explained by the resident population and their representation in the youth justice system generally.¹⁶ However, these findings raise sufficient concerns for this issue to be further investigated as a matter of priority.

Finally, the research suggests that children subject to EM faced multiple problems due to their low socio-economic status and vulnerability. Participants suggested that poverty played a role in the parental struggle to maintain control over children's behaviour and that some parents had a history of criminal justice involvement including EM. Interviewees suggested that a significant

¹⁵ This data does not include children on voluntary EM implemented by the police.

¹⁶ According to the latest Youth Justice Statistics, black children are four times more likely to be arrested than white children (YJB, 2019b: 6).

proportion of children subject to EM had a care history, aligning with the high proportion of children in care or with a care history involved in the criminal/youth justice system (YJB, 2020). This finding aligns with reports about the alarmingly growing population of looked after children in the jurisdiction (it grew by 4% between 2018 and 2019; DE, 2019: 1), and the relatively high proportion of those convicted or cautioned (in 2018, 3% among children aged 10 to 18 years).

4.2 Offences

Legally EM can be used for children accused or convicted of any criminal and civil offences, although in relation to bail, children should be accused of serious offences i.e. violent, sexual or terrorism offences attracting sentences of 14 years or more or have a history of committing offences on bail which arguably provide a measure of persistent offending (s.3AA(3) Bail Act 1976). The clear view of interviewees was that EM was most appropriate for children accused or convicted of serious or prolific offending, including violent offences committed typically in the evening or at night. Figure 2 shows that the highest proportion of children were convicted of robbery with significant numbers convicted of assault and knife crime. It should also be noted that nearly a fifth were subject to EM as a result of breach, suggesting that EM is being used as a default sanction. Data also suggest that children had histories of multiple and/or persistent offending.

Unsurprisingly given the concerns about County Lines at the time of the research, EM featured prominently in interviewees’ narratives about target groups. Policy makers pointed to the role location monitoring could play in tackling the challenges posed by County Lines. Whilst data provides no specific information on involvement in County Lines, they suggest that curfew monitoring was already being used extensively for children involved in drug-related offending. A total of 11 children (12%) were convicted of drug offences and others were convicted of drug-related offending, which was specified as (crack) cocaine or heroin in five cases. The curfew times in these cases aligned with the standard approach (mostly 19.00 to 07.00) (see below). The lack of a creative approach to setting curfew times suggest that courts rarely consider children’s individual needs as well as a punitive rather than preventive approach.

While the research implies that decision-makers see EM as a tool to tackle serious offending, this appeared to be linked to the overarching ethos of youth justice which favours out-of-court settlements to judicial procedures so that only the most serious cases are dealt with by youth courts.

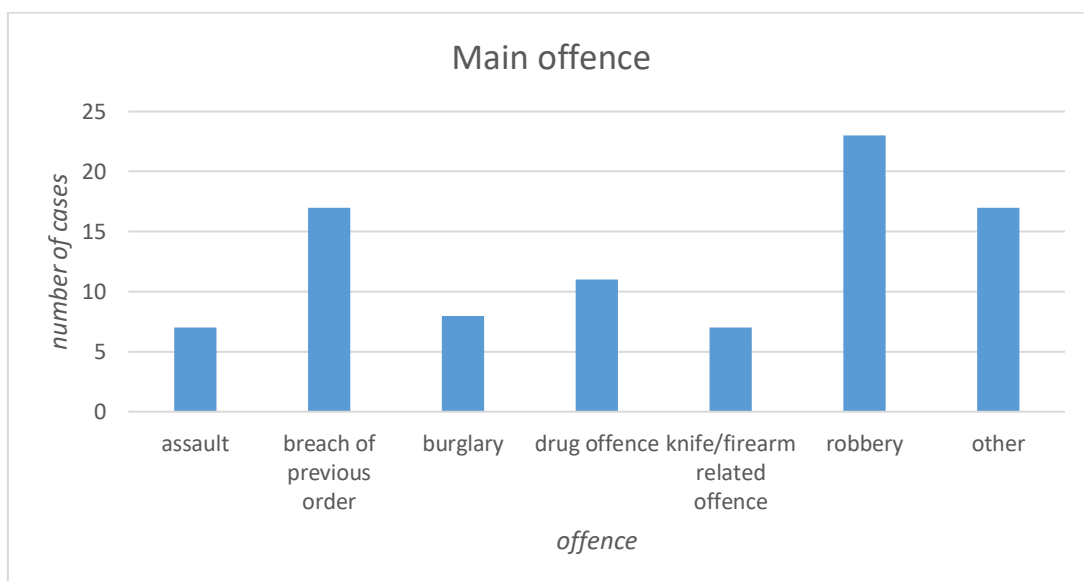


Figure 2. Offences for children on EM who are supervised by YOTs

4.3 The distribution of EM measures

Remembering that our data only included children who were supervised by YOTs, it demonstrates that the majority were subject to YROs, with or without an ISS requirement, and this was confirmed by interviewees. Figure 3 also confirms that the number of DTO and bail cases supervised by the YOTs was negligible. HDC is almost never used. Eight children were subject to EM as a result of breaching civil orders (seven CBO cases and one CI) and two of them were subject to an ISS requirement.

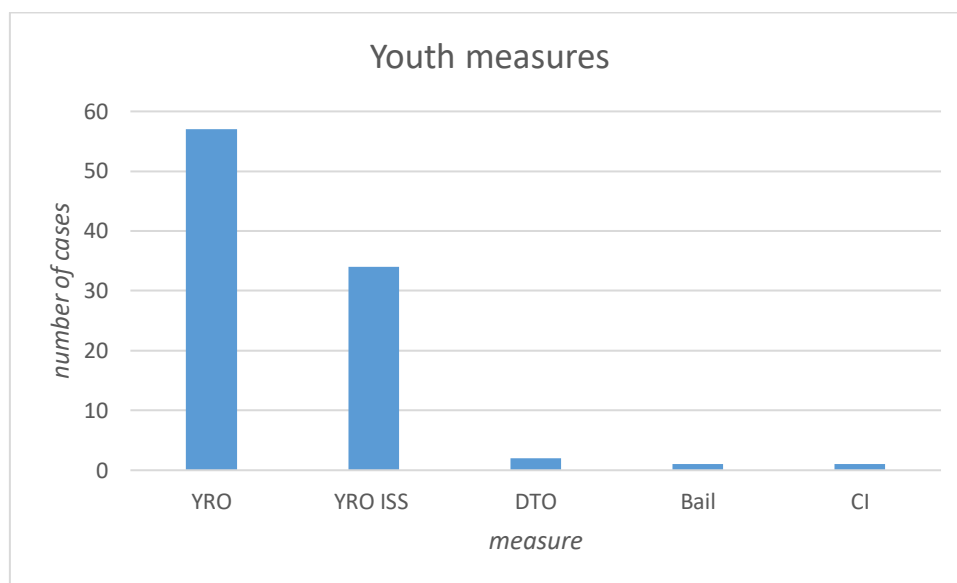


Figure 3. The distribution of EM orders supervised by YOTs

5 Assessment of risks and needs

The international documents instruct states to limit *restrictions on personal liberty* by imposing them “only after careful consideration and shall be limited to the possible minimum” (Rule 17.1b Beijing Rules), and in a way that is “proportionate to the community sanction or measure, limited by its aims and shall be placed on juveniles only to the extent that they are necessary for its proper implementation” (Rule 41.1 Rec (2008)11). Decisions should be governed by the *principle of proportionality* (UNCRC, Art. 40(4)), requiring the minimum necessary intervention. Proportionality may be considered compared with i) its aims (Rec (92)16, Rule 74; Rec (2008)11, Rule 41.1); ii) the circumstances and the gravity of offences (UNCRC, Art. 40(4); Beijing Rules, Rule 17.1.a); Rec (92)16, Rule 6); iii) the needs and personal circumstances of children (UNCRC, Art. 40(4); Beijing Rules, Rule 17.1.a); Rec (92)16, Rule 6); and iv) the needs of the society (Beijing Rules, Rule 17.1.a)). Standards, guidelines and recommendations of a variety of international bodies provide a broad range of factors which should be considered in youth justice procedures and how these needs should be assessed. This section will address the ways in which these criteria are adhered to in England and Wales.

5.1 Assessment process

YOT staff conduct risk and need assessments at all stages of the youth justice procedure. There is no separate assessment tool for EM but it forms part of standard assessments in two distinct frameworks: the procedure prior to court remand decisions, which requires a rapid collection of information and prompt advice to courts, and all other procedures where ASSETPlus, a holistic risk assessment and intervention planning tool, is used (YJB, 2014a). The time available affects the quantity and quality of collated information. In particular, it requires YOT staff to prioritise investigating the suitability and feasibility of EM over collecting information about children's needs. It also impacts upon the extent to which children are able to participate in the process.

YOT staff reported receiving information about children appearing at court from police custody early in the morning, and with youth courts beginning business mid-morning, little time is available to prepare reports. However, they reported prioritising speaking with the children, family members, statutory services, and arranging accommodation when required. Interviewees reported that assessments were done as thoroughly as possible but were limited by the time available. Whilst, in theory, the time available for assessment could be extended by making applications to courts to delay hearings, this must be balanced against the additional time children would spend in custody.

YOT staff have significantly more time, about three weeks, to complete pre-sentence reports. The assessment entails youth justice officers working with children and their families, schools, social services and other relevant stakeholders to investigate risk and protective factors and prepare an intervention plan. A similar investigation takes place in DTO cases prior to release. Cases are discussed at multi-agency panels, consisting of representatives from the police, education, mental health services and social services, case managers and other relevant organisations. The panel agrees intervention plans which are reviewed by Team Managers. In DTO cases, the operational manager, who chairs the interagency meeting, determines whether EM is necessary.

Although children's participation in youth justice procedures is promoted by policies, children interviewed for this research reported that they were not consulted during assessments and did not participate in court hearings. Children's consent for EM is not required and they are rarely present at panel meetings. It was reported that sometimes the potential use of EM was explained to children, but such a conversation was only recalled by one of the children we interviewed. Generally, children reported knowing about EM from people they knew rather than statutory services. Report writers explained that they were not routinely present at court hearings.

YOS interviewees reported that they put forward a variety of arguments for using EM but focussed predominantly on punishment related rationale as one explained:

“So, I would make an argument in terms of it's a punishment because his liberty is being restricted for 12 hours of the day, he's confined to his house, so essentially he's locked up in his house, so that in itself is a punishment. So, he's a prisoner in his own house for 12 hours a day essentially so his freedom has been taken away ... but it also then protects the public because in those 12 hours, that young person can't be out of the house, if he sticks to it anyway, committing offences, he can't go out burgling houses or selling drugs So, it protects the public, it punishes the young person and also, in terms of helping the young person change, it's given him routine and structure. He's at home, he can go to bed at a certain, hopefully at a certain time. It can help him get up in the morning which can help him go to school, go to work, go to college, so they're the arguments that I would use to propose an electronically monitored curfew.”

An important rationale for location monitoring was the use of exclusion zones to reduce the likelihood of reoffending while on EM. The risk of continued involvement in drug- or gang-related offences was mentioned as a legitimate reason for using location monitoring.

5.2 Feasibility and suitability of EM

5.2.1 Feasibility of EM

Whether EM is feasible relates to two questions. First, whether EM available in an area (s. 3AA of the Bail Act 1976; CPS, 2019; s26, Schedule 1 Criminal Justice and Immigration Act 2008). Given the national availability of both RF and GPS technologies this is largely a redundant criterion. Second, is whether EM is feasible in children's accommodation. YOT staff reported checking whether householders or other property owners gave their consent, but as they are not obliged to do so, rarely visited properties, especially at the pre-trial stage. As a result, accommodation related issues come to light only when EMS arrive to install equipment.

Interviewees commented upon problems arising from the circumstances children lived in, mainly relating to their low socio-economic status. A regular problem was ensuring a constant supply of electricity when householders relied on pre-payment meters. Loss of power is deemed to be a violation and, if verified, a 24 hours grace period is given to restore it. Households are given one pence per day to cover EM electricity costs but this does not assist those who struggle to pay for their daily use. Importantly, children usually have to rely on others to restore power given their lack of income and personal autonomy which puts them in a vulnerable position. Ensuring an electricity supply may be a source of household stress.

5.2.2 Suitability of EM

The Sentencing Council (2017) requires the Court to ensure that the EM requirements are not so onerous that breach is almost inevitable (Section 6.36). The guidance aims to prevent children being set up to fail. YOS staff consider EM as part of a package that seeks to manage risk factors and support protective factors. Assessments provide a comprehensive picture of the reasons for offending and the best way to prevent re-offending, based on offence seriousness and patterns of offending. The decision to impose EM should be based on its proportionality in relation to the seriousness of offences. When deciding curfew hours, YOS staff reported considering when offences were committed as well as children's commitments, such as education, employment and religious practices. They are also required to consider any risks such as domestic violence or limited mental capacity.

6 Addressing children's needs in the monitoring process

International standards and guidelines recommend general responsiveness to children's needs. This may be achieved by adapting procedures to suit children's circumstances by, for instance, providing help and guidance in integration (ECOSOC 2016-C_110_13, 4.2.3), taking a dynamic approach to conditions (Rec (2016) 7, Rule 12; Tokyo Rules, 10.4, 12.4), reducing justice responses (ECOSOC 2016-C_110_13,3.2.1), demonstrating flexibility and diversity in conditions (ECOSOC 2016-C_110_13, 3.3.1; Rec (92)16, Preamb. b), 86-88), and cooperating with families (ECOSOC 2016-C_110_13, 4.2.1; Rec (2003)20, Rule 8).

Children's needs are responded to differently depending on the sanctions and measures monitored by EM because of different statutory requirements, which organisations are responsible and the approach of staff. This section presents the key aspects of the monitoring process and the ways in which it responds to children's needs.

6.1 Technological support

Technological support is provided by EMS and the ways in which it is provided are largely dictated by the EM contracts and how these are interpreted by EMS (Hucklesby, 2018). EMS managers suggested that the priority was to have accountable and administratively accurate processes to demonstrate adherence to service level agreements which are linked to payments. EMS staff saw their role as providing technical support, and as gathers and conduits of information rather than decision-makers or support workers (see Hucklesby, 2011). Consequently, their roles extended only to recording information and signposting children to relevant organisations. Staff work either in the field as field monitoring officers (FMOs) or in the monitoring centre. FMOs are home-based and visit monitored individuals' accommodation to install and decommission equipment and investigate violations. They do this alone or in pairs, visiting a number of addresses in each shift. Neither group reported receiving specific training to work with children.

Monitoring procedures and protocols are largely the same as for adults. As a result, they assume legal and mental capacity and do not reflect the status of children, their needs and vulnerabilities. There are exceptions including: that visits to children's accommodation must be done by two FMOs if children live independently; an appropriate adult must be present if children do not live independently; and routine visits to children to install and decommission equipment should be prioritised and completed before 22.00. However, this is not an exclusive rule and additional visits may take place after 22.00 to investigate serious violations. Late visits are particularly problematic for younger children and because they disturb the whole household. Installing equipment requires it to be 'ranged' involving wearers walking around every part of the property while the home unit beeps loudly, which as one FMO explained impacts upon everyone present:

"...along with installing equipment we're not just visiting that individual, we're visiting the whole family because we physically have to visit every room in that property [to] ... install the equipment, so anybody in that address is likely to be disturbed and awake by us visiting."

The protocols currently in place provide insufficient safeguards for children on EM. FMOs confirmed that children have different needs to adults which vary according to a range of factors including age. They reported children displaying anxiety, indifference or confrontational behaviour. They also highlighted that EM needed to be explained more carefully and in different ways to children. They found this challenging, particularly when children reacted negatively. They identified the importance of their interaction with children for acceptance of monitoring and subsequent compliance. One child interviewee reported that interactions with both FMOs and the monitoring centre can trigger anger or resigned acceptance. One interviewee recounted his experience of being told he had violated his curfew:

"They [EMS] just say, 'You breached it by say, for example, 18 minutes', and I'm just like, 'All right, cool', and then they'll be like, 'It's going to go down as a small time violation, is that okay?'. Sometimes I report it but there's nothing I can do about it anyway, so obviously it's okay and I just go, "Yeah, yeah, whatever", and then I just put the phone down on them."

FMOs reported that they were not trained to assess children's needs or risks associated with their home environment although limited safeguarding training is reported to be provided. EMS do not

have a statutory duty of care and manage any concerns raised through its own policies. One safeguard which is in place is that EM is explained to the appropriate adult who is present during installation and they are required to sign along with the children to confirm that they have understood the requirements. However, as previous research has demonstrated (Hucklesby, 2008; 2009) this does not provide adequate safeguards.

Current regulations assume that children are responsible for complying with the conditions which are being monitored. In addition, however, they are also made responsible for the equipment, ensuring that it is not damaged or tampered with and that GPS equipment is charged (see in the regulation of HDC, s.4(2) the Criminal Justice (Sentencing) (Licence conditions) Order 2015). Children have a duty to report problems with equipment and allow EMS access to check equipment.

6.2 Duration of EM requirements and curfews

The typical length of YRO curfew requirements monitored by EM is three months. Longer periods are rarely imposed. Three quarters (68 out of 90) of our cases have curfews of three months or less. Most often, EM is imposed at the beginning of YROs to monitor Intensive Surveillance and Support requirements. Curfew times mirrored those for adults and were normally set between 19.00 and 09.00 and for between 10-12 hours a day (Hucklesby and Holdsworth, 2016). Only six cases deviated from this pattern: four curfews started at 22.00 and two began earlier (17.00 and 18.00).

6.3 Flexibility under the supervision of YOTs

EM was reported by YOS interviewees to be rarely used as a standalone measure unless it is imposed to monitor bail conditions. Unsurprisingly given our sampling strategy, all the cases in our sample had a supervision requirement imposed alongside EM. Consequently, support is provided by YOT staff who are responsible for monitoring compliance. It was reported that children often have other requirements imposed alongside curfews and supervision including reparation, activity or programme requirement or exclusion zones.

There is no policy which sets out how the intensity of contact between children and YOS should differ when EM is in place, but our findings suggest that this may happen in the practice. YJB policy (2019d) requires supervision meetings to take place fortnightly for the first three months and monthly thereafter and more frequently when ISS is imposed (25 contact hours a week across the different activities). One interviewee suggested that the frequency of meetings for children subject to EM needed to be at least weekly in order to check on their welfare.

Violations of EM requirements are discussed with children, and YOS staff only take enforcement action when breaches are serious. YOS staff reported that they took a flexible approach and considered whether there were legitimate explanations for violations, which could prevent referral of cases to courts. Evidence may be requested from parents, schools and other organisations and individuals. Occasional absences may also be approved in advance if there is insufficient time available to request variations. Interviewees recognised that these practices represent a lenient approach, contradicting the assumed punitive purpose of EM.

6.4 Involvement of the family

Parents and caregivers (hereinafter: parents) play a crucial role in the monitoring process. Parents act on behalf of their children, providing them with appropriate housing and overseeing all aspects of their lives. However, the role of parents is complicated by the legal position of 'near' adults i.e. 16 to 18 year olds in England and Wales who have a limited legal independence, who are able to live independently, but do not have rights to full state benefits. As we have seen, this group

constitute the largest group of 'children' subject to EM so EMS and YOT workers have to navigate a complex, and at times confusing, regulatory context.

A controversial regulatory feature is that courts are only obliged to share information about EM requirements when children are under 16 (s14.12 (2) b); s.28.2 (3)a Criminal Procedure Rules 2020) despite a legal requirement for parent to represent children under 18. Parents are only asked for their consent when children are 16 or over when they are the 'householders' and therefore need to consent for EM equipment to be installed in their property. If children live away from their parents, and many interviewees reported that those of 16 and above often do, parents do not have to be consulted about the use of EM. There are, therefore, no guarantees that children's interests to keep in contact with their families are respected. Whilst keeping contact with parents is a fundamental right of children (Art 9, UNCRC), it has also been found in some cases to be critical to compliance (Hucklesby, 2009). Although it is also recognised that families can influence children negatively as well as positively (Hucklesby, 2008).

Interviewees mentioned that parents were key to children's compliance with EM and that they encouraged their involvement even though this was not required by EM policies. Interviewees expected parents to be aware of the details of requirements and encourage children to comply. YOS staff explained that they always invited and expected parents to participate in the assessment process and attend review meetings. They were also expected to be present when YOS staff visited children's homes once a month. Parents are able to access local authorities' family services if additional support is required.

7 Violations and breach

The breach procedure assumes that any violations result from deliberate acts of non-compliance. The same breach policy applies to children and adults (HMPPS, 2021). The policy sets out what constitutes non-compliance or 'violations'. These include tampering with equipment, removing equipment, violence against staff and time violations ranging from missing whole curfew periods or being late for the start of a curfew. Not being able to install EM equipment on three occasions is also treated as a breach.

Previous research has highlighted the anomalies which arise between the breach policies relating to the use of EM pre-trial and post sentence (Hucklesby and Holdsworth, 2016). These are again highlighted by our findings with potentially more serious implications because the affected parties are children.

7.1 Different standards of compliance

YOS staff are responsible for all measures involving EM alongside supervision.¹⁷ As a result, in these cases they decide whether violations are sufficiently serious for breach procedures to be commenced. Their decisions are framed by the published breach policy but they have considerable discretion. The need to be flexible was recognised by a policy maker because children do not always have the autonomy to prevent violations:

¹⁷ The police are responsible for breaches relating to bail without supervision requirements.

“Thinking about how easy it would be for a child to comply as opposed to an adult, where they don’t have the autonomy that you would have with an adult, particularly, for example, if they were subject to location monitoring and there was an exclusion zone, and they were in a car with their parents, for example, they wouldn’t have control over that vehicle and whether it went through the exclusion zone or not.”

Time violations were the most frequently reported violations. They are reported to YOTs by EMS only when they have accumulated to a threshold of two hours for post-sentence use of EM which complies with contractual requirements. Consequently, many relatively minor violations are likely to have occurred before YOTs are informed. As a result, interviewees reported frustrations about the time lag between non-compliance events and being made aware of them, in their view hampered their efforts to discuss it with children and encourage future compliance. EMS are responsible for contacting children via the monitoring box after every time violation, however small, and issue two warning letters, copies of which are sent to YOTs. Once the breach threshold is reached a breach pack is sent to YOTs, who instigates breach proceedings with the courts or responsible officers in secure establishments, if it deems it to be appropriate.

The police are responsible for investigating violations of EM bail. The breach policy for EM bail mirrors the one post sentence with one important exception. The breach threshold for time violations is much shorter at 15 minutes. After which time, EMS send a breach statement (s.9, Bail Act 1976) to the police. Breaches of EM bail are breaches of bail conditions and are therefore dealt with according to the Bail Act 1976. They may lead to arrest without warrant (s.7(3)b Bail Act 1976) followed by a court appearance in which the grant of bail is reconsidered. The police have the discretion to decide what action to take when they receive violation information from EMS. A protocol has recently been put in place so that location monitoring violations are triaged to ‘avoid unnecessary police attendance’ (HMPPS interviewee).

The difference in breach thresholds for bail and other measures is confusing, especially if children are subject to two different conditions monitored by EM simultaneously or consecutively (Hucklesby and Holdsworth, 2016). The potential to set children up to fail was explained by a youth justice officer:

“He was a little bit confused because when he’s had an order with a tag, when they breach, it comes to us at the YOT and then we decide whether to send them to court or not, so the power lies with us. He was on his court [bail] tag and thought, “I can be late, doesn’t matter” and then the police just turned up and arrested him and he was like, “What’s going on?”, but it’s because it’s court bail, they’re really strict and you can’t be late at all, they’ll arrest you straightaway.”

7.2 Consequences of breach

Once the police or YOTs decide that there is a case to answer, breach proceedings are instigated in youth courts for EM bail and YROs. In relation to bail, breaches of bail conditions are not criminal offences and result in a reconsideration of bail. Consequently, children may be remanded on unconditional bail, conditional bail with the same or different conditions, to local authority accommodation or to secure accommodation. In practice, remands to local authority accommodation as a result of breach are rare but if they happen might lengthen the time of EM under different measures. Therefore, there is no safeguard to ensure that periods spent on EM are proportionate and reasonable.

In YROs, alleged breaches must be dealt with by a court. Courts may decide to take no action or to sanction the breach of EM requirements by imposing a fine of up to £2,500 and allowing the order to continue; amending the terms of the order; or revoking the order and

resentencing the child (s12, Sentencing Council, 2017). Revoking and resentencing provides courts with exceptionally broad and problematic decision-making powers. The reason of this statutory mandate is that YROs are independent sanctions, without an underlying tariff of imprisonment. Accordingly, it is not possible to convert sanctions into a different type of sanction when responding to breaches. Consequently, courts may be required to impose a new sentence, raising questions about proportionality and fairness. One, resentencing, indicates that the original sentence was unsuccessful and an entirely new measure must be imposed. As the Court may impose any legally available sanction and resentence a child multiple times, breaches may lead to resentencing until courts have exhausted all available sanctions. As a result, resented children may receive an EM requirement in each new sanction, by which their total period on EM may exceed the policy recommendation of three months and/or have intermittent periods on and off EM. The latter will remain undetected in any reviews because new sentences will be registered separately. Two, as highlighted above, the current system allows civil orders to be transformed into DTO's due to persistent non-compliance with EM. Three, there is no guarantee that courts will avoid repeatedly imposing EM even if it has been unsuccessful to-date. Four, sentencing guidelines do not address the circumstances which must be considered when children are deemed to fail to comply with EM. Categories such as 'wilful and persistent' non-compliance are not defined. Five, there is no requirement for decision-makers to ensure that restrictions continue to fit with children's, potentially, changing personal circumstances (s.7.17 Sentencing Council, 2017). The law requires that courts consider only the 'circumstances which have arisen since the youth rehabilitation order was made' (s12(5) Schedule 7 Sentencing Act 2020), and specifically, 'the extent to which the offender has complied with the requirements' of the order (s12(7) Schedule 7 Sentencing Act 2020). They must increase the punitive requirements upon non-compliance with reporting requirements or 'other similar obligations' (s7.16 Sentencing Council, 2017).

Youth courts also adjudicate in cases involving breaches of DTO requirements. If breaches are proven they may take no further action and continue the order, impose a fine, or vary sentences by ordering an additional period of custody or supervision for a period of up to three months (s.7.21, Sentencing Council, 2017). Decisions in HDC cases are approved and issued by the Governor of Young Offender Institutions (YOIs) or the Youth Custody Placement Team for Secure Training Centres (STC) or Secure Children's Homes (SCH) (MoJ, 2018). Proven breaches may result in children being recalled to secure establishments.

8 (Re)integration on EM

8.1 Reinforcing pro-social involvement through technology

Many interviewees suggested that EM was beneficial for children because it keeps them out of secure establishments and in the community. EM was regarded as a tool that helped to prevent meaningful relationships deteriorating and promoted positive roles in society, such as employment and education. It was also claimed that EM provided an opportunity for children to 'get their lives back on track' by developing daily routines and structure and spending time with their family. By contrast, the use of technology may result in 'being there' becoming the end rather than a means to desistance. Inflexibility and stringent enforcement pose a risk of harm. Requiring children to stay in a particular place also has its dangers and takes away their autonomy to take appropriate action. For example, they may feel unable to leave home where domestic abuse is taking place or leave school when they are being bullied or pressured by peers as explained by one interviewee:

“Location monitoring I think in an environment with peers, a full day in school ... with peers, who you are required to associate with because that’s where you are, the negative impacts and pressures that that could put upon the child could be disproportionate. They’re not an agent of power in so much of what they do because they are children. They could be pressurised in a way that they’re going to be in trouble either way, they can’t leave ... if they leave the school they’re in trouble, if they walk away they could be in trouble. If they stay in, they’ll be in trouble [...]. They don’t have control.”

Beyond providing the opportunity to remain in a familiar and positive environment, participants found that EM is a means to protect children from harm by limiting the occasions for reoffending. EM can provide an excuse for not associating with peers of negative influence and in this way it has the potential to deter children from offending (Hucklesby, 2008). However, a youth justice officer warned that compliance often relaxes when EM is removed, suggesting that EM may support short-term compliance (Hucklesby, 2009).

Several participants representing different stakeholders highlighted that EM stigmatises children, which could hinder social integration. Some interviewees suggested that tags were easy to hide but the more widespread view was they were visible when children participated in age-appropriate activities which they were encouraged to do. The different circumstances which are considered between adults and children were addressed by a policy advisor:

“Adults are allowed not to tell people things, but children in families or care situations, there’s almost an obligation to be answerable in a way that adults have a sense of privacy and autonomy that children often won’t have. And if they’re attending school it could be, it could place huge demands upon their acceptance and compliance, and judgements.”

A young person confirmed that his tag was a visible sign of a label as criminal which was different from the definition he had of himself: “I see having a tag on this leg, it's a tag but it's also tagging you with something, so it's basically saying you're a criminal, when in reality that might not be the case.”

8.2 Limiting age-appropriate behavioural patterns

Interviewees associated EM with a positive impact on children’s age-appropriate behaviour, but the focus was on education, training and employment rather than leisure activities. Participation in leisure activities, such as associating with peers outside of school or sport, were considered long-term goals rather than activities which should be supported through EM. It was acknowledged that curfews would mean that some of these activities would be stopped temporarily because they would be unable to play with the equipment in situ or because of curfew times. In other cases, non-compliance events occurred because EM restrictions meant they were unable to access gardens or step out the door for a cigarette.

Children subject to EM reported that it stopped them from hanging out with friends. One child added that the tag attracted the attention of police, making him a subject of suspicion. He, therefore, changed his behaviour to avoid police attention for example, by staying away from areas where young Black boys were regularly stopped by the police.

9 Children's views

The positive role of social (re)integration in the prevention of youth crime is widely accepted. In line with the UNCRC's fundamental requirements on children's treatment in the youth justice system (Art 40(1)), the Riyadh Guidelines elaborate on the principles of prevention. According to these principles, children should be engaged in lawful, pro-social activities, encouraged to adopt a humanistic orientation towards society and outlook on life and develop non-criminogenic attitudes (Rule 1). All preventive measures, whether implemented in welfare or justice systems, should encourage the integration of children, "in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations" (Rule 10). This research identified that the primary sites for integration are secondary schools and workplaces because of the age of the children subject to EM.

As part of the research, 28 children attending secondary school took part in focus groups to discuss EM based on their general views and personal experiences (see appendix 1). None of the participants had been electronically monitored but several children reported having been indirectly experiencing EM within their families or peer groups. Their knowledge of EM was gleaned from media sources, a school presentation by the police and their personal experiences.

This section reviews the findings, discussing peers' views about children's integration into schools. Children demonstrated great empathy towards their monitored peers, anticipating a range of social and psychological consequences of their involvement with EM. They suggested that it was more appropriate to focus on the causes of crime and provide wider support.

9.1 Children's general perceptions of EM

Children regarded EM as an intrusive surveillance tool that restricts movements, provides information about wearers' whereabouts and makes communities aware of the potential risks posed by wearers. EM was viewed as a mechanism to keep children out of detention and away from its harmful consequences although one participant drew attention to the similarity of EM to secure detention. Some participants suggested that EM could be rehabilitative because it acted as a deterrent and disrupted association with deviant peers. It was suggested that its main purposes were the prevention of reoffending, enforcing control and deterring minor offenders.

The offences associated with EM varied, from less serious offences such as theft and anti-social behaviour to more serious gang-related offences, such as serious violence and drug offences. Some participants mentioned that restrictions were most effective if they reflected characteristics of offences, such as excluding people from areas where offences had been committed.

Participants valued liberty and saw it as 'the freedom to do what one wants'. They suggested that EM should allow wearers to fulfil their basic needs including physical activities, maintain family relations, integrate into the community, find a job and attend school. One participant suggested that activities outside of school should be restricted "because ... where like they went wrong in the first place was not in school, it was probably outside of school" (Holly, 16). Children thought that wearers should not be able to attend parties, drink alcohol or use drugs.

9.2 Obstacles of and opportunities for integration into schools

Children suggested that EM resulted in wearers being stigmatised because the tags provided visible evidence of involvement in the justice system. It did this by effecting wearers' behaviour and the behaviour of those around them which could include exclusion, bullying and increased

racial discrimination. Many participants suggested that EM would have an impact on children's mental health and their confidence to participate fully in their communities. They explained that tags are likely to discourage association with peers because wearers would feel trapped by the stereotypes of offenders as Josh (15) explained:

"And everyone is staring at you as well you would probably feel like that even if they are not. Paranoid."

Most participants suggested that children would try and hide devices as much as possible. One participant explained that this was also suggested by the school. However, the size of the devices, especially GPS tags, was recognised as making it difficult to do. Two participants suggested that tags were often treated as badges of honour but that this behaviour did not reflect the true feelings of wearers. As Molly (18) suggested:

"I've seen, well I've known a few people that have been tagged before. And I think from my experience I saw a lot of like, not bragging about it but it was a bit of a symbol, do you know what I mean? [...] It was always a bit of a like a sign of you're sort of bad. I don't know. It was never something that was like people were like ashamed of. From my experience that's what I saw. But also I've never been particularly close to someone that, so I'd presume that that's just sort of a front, do you know what I mean?"

Several participants suggested that using EM and associated restrictions invited retaliation by peers which could lead to breaches and further offending.

EM was identified as a subject which was difficult to discuss with peers because it was viewed as personal and sensitive. Participants suggested that discussing offences or issues relating tagging with friends was particularly unlikely and difficult with people they did not know. They, therefore, suggested that a trusted teacher should be appointed to make arrangements in the School and provide support to wearers. One participant added that additional external support was key to addressing underlying problems, because "putting a tag on isn't going to prevent that in the long term, not in all cases" (Jamie, 16).

9.3 'Preventing EM' – Children's approach to the proportionality EM measures

Many participants believed that EM was not the answer to children's offending because it resulted from deep-rooted social problems or occasional mischiefs. This was because it effected the way children thought about themselves:

"I just think like if you do something minor as a teenager, I just think being taught to not do it again like rather than having that on you is like better, is like a better option. Because it's just like better when you're older and you won't have that mind set of like always thinking you're doing something wrong and then people aren't going to like see you as a bad person." (Nathan, 16)

Some participants agreed that if appropriate services for parents and children were available, children would not end up in trouble. As Lucas (17) explained:

"It's like the thing about the individual. Instead of categorising all these people by using the tag, they should be thinking what caused them to do these crimes in the first place. Like helping from the start and not this tag afterwards. Should be a thing that should be helping them before they even think about doing a crime."

One participant suggested that primary child protective services, such as Sure Start Centres, should be supported to prevent offending instead of investing in EM.

10 Recommendations

Youth EM has a relatively long history in England and Wales compared to other European youth EM systems, yet it has received limited attention from policy makers and researchers. This report aimed to provide an analysis of the key features of the system through empirical research with stakeholders and children.

The laws relating to the use of EM with children are found in a range of legislation, potentially resulting in inconsistencies between different modalities. This is largely explained by EM being used as a tool to monitor compliance with a range of pre-trial, sentence and post-release requirements which are correctly the subject of the legislation. Policy relating to EM is also fragmented across a range of documents making it difficult to access and less understandable.

The operation of EM with children is complex requiring cooperation between youth justice agencies, HM Prison and Probation Services and Electronic Monitoring Services (EMS). The primary responsibility and client groups of the latter two agencies are adults, resulting in children potentially being marginalised in a system created for, and dealing predominantly with, adults.

The use of EM with children is explicitly enabled by law, but in practice it provides limited safeguards given that it normally has the effect of aligning with the legal framework for adults. Similarly, policy and practice are largely the same for children and adults with only relatively minor differences, such as by whom and when children can be visited in their homes. Significant differences exist when children are supervised by YOTs when staff take a more youth justice orientated approach. YOT staff reported that their approach results in children being closely supervised and supported throughout the monitoring period to encourage compliance, and demonstrate flexibility when children do not comply. This approach was contrasted with a less supportive and stricter enforcement regime for those not supervised by YOTs resulting in it being less responsive to children's needs.

EM was viewed as a punitive measure which should be reserved for cases involving serious (alleged) and/or persistent offending. It was seen as an unsuitable response to breaches of CBOs and Cls. GPS monitoring was viewed as particularly useful for children involved in county lines and/or gang related violence. This was linked to EM being seen as a potential important way to protect children from harm. A potential worrying downside of these approaches is disproportionate use of EM for some groups including black and minority ethnic groups and children in care.

The advantages of EM were seen as keeping children away from people and places which were linked to their offending, which coincide with previous research with adults (Hucklesby, 2008). The benefits of EM were understood to be greatest when children's circumstances were fully considered, and they were provided with appropriate support from specialist youth justice practitioners, which had the best chance of improving compliance and limiting children's involvement with youth justice.

This research has identified the following good practices:

1. Assessment and supervision by staff trained to understand children's needs and respond to them flexibly exists for all community sentences and early release measures.
2. A responsive and flexible approach is taken by YOTs to non-compliance which ensures that violations are investigated and are dealt with out-of-court, when appropriate.

Drawing on these good practices, plans to allow YOTs to make minor variations to orders, such as amending curfew times, as a result of changes in children's circumstances, add to the responsiveness of orders and has the potential to decrease non-compliance (point 352, MoJ, 2020b).

The following recommendations should be considered to address areas of concern highlighted by the research:

1. A comprehensive EM policy for children should be developed to ensure that the purpose of EM is clearly articulated, and all relevant material is easily accessible and systematically available;
2. The policy should enable YOTs rather than courts to make minor changes to monitoring requirements in all relevant procedures including bail;
3. More creative use of curfew times should be encouraged to increase the responsiveness of EM to children's circumstances;
4. Breach thresholds for EM elements of different types of orders should be standardised to reduce the likelihood of confusion and increase compliance;
5. The assessment tools for children below 18 should be improved to ensure that they adequately address the impact of EM on children's lives, including taking account of their home circumstances and keeping contact with family members;
6. A legal minimum age for the imposition of electronic monitoring should be set to prevent harm in younger children and decision-makers actively encouraged to use alternatives which are more appropriate for this age group;
7. HMPPS, YJB and EMS should review operational policies relating to the use of EM with children to assess whether they provide sufficient safeguards for children;
8. All FMOs and EMS monitoring centre staff should receive specialised training on the use of EM for children including their special needs and good practices for practitioners;
9. YOT staff should receive comprehensive training on the use of EM for children including their special needs and good practices for practitioners;
10. Following the assessment of children education needs, children on EM should be encouraged to attend schools and supported in their integration. A specified teacher should be identified and trained to provide support to these children;
11. A system of monitoring the use of EM systematically, particularly the use of GPS according to a range of protected characteristics including gender and ethnicity should be introduced;
12. Resentencing of children for breach of EM conditions should be prohibited to prevent children from receiving sentences which are disproportionate to their original offences. If conditions are varied, courts should be encouraged to find other alternatives to deprivation of liberty rather than increasing restrictions monitored by EM.
13. The use of EM should be prohibited as an outcome of breach proceedings for Criminal Behaviour Orders and civil injunctions.

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- Criminal Procedure Rules 2020, no. 759 (L. 19), Available at: <https://www.legislation.gov.uk/uksi/2020/759/contents/made> (18/04/2021)
- The Criminal Justice (Sentencing (Licence conditions) Order 2015

Annex 1 - Methodology

1 Purpose of the research project and research questions

The project aimed to investigate the use of EM measures in the youth justice system and to understand the methods by which the distinct needs of children and young people are identified and addressed. The research aimed to:

- identify and compare the legal and policy frameworks in which EM operates in the youth justice systems;
- identify the existing models of EM schemes targeting young people across jurisdictions and examine their integration in the youth justice system;
- identify and explain gaps between the principles and operational realities of the use of EM with children and young people;
- investigate the views of stakeholders and children and young people about the use of EM in the context of youth justice; and
- make recommendations for the most appropriate use of EM for children and young people in the context of criminal justice based on the practice of the three models identified.

2 Data collection

The data collection took place in 2019 and 2020. A total of 24 interviews were conducted with a variety of actors, from the Ministry of Justice, the Youth Justice Board, two Youth Offending Services and Electronic Monitoring Services. Table A1 shows the distribution of participants across these organisations. Interviews were conducted with participants working at the Greater London area and Northern England. Half of those interviewed were male and half female.

Table A1. Interview participants

ORGANISATION	NUMBER OF INTERVIEWS
MINISTRY OF JUSTICE	3
YOUTH JUSTICE BOARD	1
YOUTH OFFENDING SERVICES	8
ELECTRONIC MONITORING SERVICES	12

Two groups of children were involved in the research. We interviewed three children who were being electronically monitored at the time or shortly before the interview. Their views were supplemented by focus group interviews with 28 secondary school children. The participants ranged in age between 15 to 19; 17 participants were male and 11 were female. Transcripts of the focus group interviews were anonymised by the use of pseudonyms. Focus group lasted around 45 minutes. First, children were asked about the association with ‘tracking’ and ‘monitoring’, followed by a short explanation of the working of RF and GPS monitoring in England and Wales, Hungary and the Netherlands. The groups were asked to discuss about their perspectives on how those on EM could be supported in the School environment.

Interviews and focus group interviews were transcribed verbatim. Where voice recording was not possible, interview notes were typed into word documents. All interview data were analysed using NVivo. Throughout and following the data-driven coding process, codes were organised into groups and memos were used to pair codes and establish and explain the connection between them.

Interviews were supplemented by anonymised datasets from YOS containing information about children known to be subject to EM. The dataset includes 90 cases, in which an EM requirement

was implemented between 1 January 2019 and October 2019/December 2019 respectively, due to the different collection date. The sample includes four females.