

JUSTICE (NORTHERN IRELAND) ACT 2002

EXPLANATORY NOTES

COMMENTARY

Part 4: Youth Justice

Youth Conferences

Section 59: Court-ordered youth conferences

122. The second type of youth conference is one ordered by the court. A court-ordered youth conference would occur after a court had found a child guilty of an offence and provides a way to consider how to deal with the child for the offence in question. It is not itself a sentence. Unlike diversionary youth conferences, specific rules are laid down as to when a court must, may and may not refer a child and offence to a youth conference (new Article 33A). The effect of this is that the court must refer a child and offence to a youth conference if the offence in question is anything other than -
- an offence for which the sentence (in the case of an adult) is fixed by law as imprisonment for life (such as murder);
 - an offence which is, in the case of an adult, triable on indictment only (i.e. triable only in the Crown Court);
 - an offence which is a “scheduled offence”, i.e. an offence listed in Parts 1 to 3 of Schedule 9 to the Terrorism Act 2000;
 - in certain specified circumstances only, an offence for which a diversionary youth conference has been held (new Article 33C(2)); or
 - an offence for which the court intends to grant an absolute or conditional discharge (new Article 33C(5)).
123. A court may not refer a child and offence to a youth conference where the offence is either one for which the sentence (in the case of an adult) is fixed by law as imprisonment for life or where it intends to grant an absolute or conditional discharge. In any other case (i.e. where the offence is one of those mentioned in the second, third or fourth bullet points above) the court may refer the child and offence to a youth conference, but is not obliged to do so. As the youth conferencing provisions are to be introduced area by area, the court may only make a reference if it has been notified that the provisions have been brought into force in the area in which the child lives or will live (new Article 33C(1)).
124. New Article 33B sets out the rules to deal with the situation where the child is found guilty of more than one offence. If any of the offences are ones for which the sentence (in the case of an adult) is fixed by law as imprisonment for life the court cannot refer any of the offences to a youth conference (new Article 33B(2)). If the combination of offences includes both one or more for which a court-ordered youth conference is mandatory and one or more for which it is at the discretion of the court, the court may

*These notes refer to the Justice (Northern Ireland) Act
2002 (c.26) which received Royal Assent on 24th July 2002*

(but is not obliged to) refer all or any of the offences to a youth conference (new Article 33B(3)).

125. As well as recommending a youth conference plan to a court, a court-ordered youth conference can also recommend that the court simply exercise its existing powers to deal with the child or recommend that a youth conference plan and a custodial sentence be combined (new Article 33A(5)). In each case any person required by new Article 33E to consent to the recommendation must have indicated their agreement. If the conference is unable to agree any recommendation the co-ordinator will report this to the court.
126. If a court does not refer a case to a youth conference co-ordinator where it has the power to do so, it must give its reasons in open court (new Article 33C(4)).