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	ICOS No:	**25/48717/A01**
	Delivered:	**26/05/2026**

IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

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THE KING

v

EW

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Ms R Walsh KC with Ms A Macauley (instructed by McCrudden Trainor Solicitors) for the Appellant
Ms N Auret (instructed by the Public Prosecution Service) for the Crown

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Before: Keegan LCJ, Treacy LJ and Smyth J

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SMYTH J (*delivering the judgment of the court*)

In this judgment, the appellant has been anonymised as he is under 18. Nothing must be disclosed or published without the permission of the court which might lead to his identification.

Introduction

[1] The appellant appeals with the leave of the single judge, McAlinden J, against the sentence imposed on him by Her Honour Judge McColgan KC ("the judge") on 9 January 2026 in respect of:

(i) unlawfully and maliciously causing grievous bodily harm to Scott McFetters with intent to do him grievous bodily harm, contrary to section 18 of the Offences against the Person Act 1861 (count 1); and

(ii) attempting to cause grievous bodily harm to John Kane with intent to do him grievous bodily harm, contrary to Article 3(1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 and section 18 of the Offences against the Person Act 1861 (count 2).

[2] The appellant was sentenced to a determinate custodial sentence ("DCS") of three years and four months on count 1, comprising 20 months in custody and 20 months on licence and a DCS of 20 months on count 2, comprising 10 months in custody and 10 months on licence to be served concurrently.

[3] The appellant was born in October 2009 and was 14 years old at the date of these offences and 16 years old at the date of sentence. The prosecution was initially brought in the Youth Court, but the District Judge declined jurisdiction, and the appellant was committed to the Crown Court for arraignment.

[4] At arraignment he pleaded not guilty to count 1, but guilty to the lesser offence under section 20 of the Offences against the Person Act 1861. In respect of count 2, he pleaded not guilty but guilty to the lesser offence of section 47 of the Offences against the Person Act 1861. After the prosecution indication that lesser pleas were not acceptable, the appellant sought to be re-arraigned and entered guilty pleas to both counts.

[5] There are five grounds of appeal:

(i) The judge ought not to have proceeded to sentence without convening a youth conference and/or giving insufficient reasons for declining to do so.

(ii) The judge did not consider other methods of punishment.

(iii) The judge selected a starting point that was too high.

(iv) The resultant sentence was wrong in principle in accordance with *R v CK (a minor)* [2009] NICA 7.

(v) The judge failed to consider the appropriate licence period.

[6] Leave to appeal was granted in respect of all grounds.

Factual background

[7] On 14 April 2024 at 00:24 hours, police responded to a report of an ongoing assault, captured on CCTV by Lisburn Citywatch on Bridge Street, Lisburn.

[8] The CCTV shows the victims, Mr McFeeters and Mr Kane walking down the street and interacting with the group that included the appellant. This was not a group of peers, but comprised mainly the appellant's aunt, uncle and younger cousin. It appears that words were exchanged and then the appellant punched Mr McFeeters twice to the head, punched him again twice to the head and despite attempts by Mr Kane to restrain the appellant, he broke free, punching Mr McFeeters again, who fell to the ground motionless.

[9] The appellant then stamped on his head three times and kicked him twice to the head. One of the other males knocked Mr Kane to the ground and the appellant kicked him to the head. As he tried to get up, the appellant kicked him a second time. The appellant was then restrained by others in his group but remained in an agitated state before walking down the street.

[10] Mr McFeeters sustained fractures to his skull and face, including his eye socket. He had two broken teeth and a 2cm laceration to his right eyelid, as well as a 2-3cm laceration to his lower lip. After the lacerations to the lip were sutured, it was noted that a tooth fragment remained which had to be removed under local anaesthetic. He also had bruising to various parts of his head and body. Mr Kane sustained a cut to the back of his head.

The victim statements

[11] There is no dispute that this was a serious attack on two innocent people, one of whom suffered very significant injuries. In a victim statement, Mr McFeeters described the ongoing pain in his cheekbone, a lump above his eye and one inside his lip which affected his speech at times. He expects the effects to be long term. His mental health has also been affected and although he has accessed counselling, he remains very anxious and vigilant that such an attack might happen again.

[12] Mr Kane's injuries were less serious but he was in a great deal of pain afterwards and had to take time off work because his job is physically demanding. He also fears that such an attack could happen again and ruminates on the fact that such a vicious and unprovoked attack could occur on two middle-aged men simply making their way home.

[13] The judge accepted the prosecution submission that the aggravating factors were:

(i) the use of the weapon in the form of a shod foot;

(ii) there were two victims;

(iii) the incident occurred on a public street; and

(iv) there were repeated kicks and stamps to the head.

[14] On 18 September 2025, when the guilty pleas were entered, prosecuting counsel confirmed that the guideline case was *DPP's Reference (numbers 2 and 3 of 2010) McAuley and Seaward* [2010] NICA 36, which concerns kicking and stamping of a victim on the ground with a shod foot. Counsel also drew the court's attention to the power to direct a youth conference report as well as a pre-sentence report and that in her experience, in the rare case of a child being sentenced in the Crown Court, both had been directed. The judge considered that a pre-sentence report would be

sufficient although she would also direct a youth conference report if defence counsel considered that it may be helpful. It appears that both concluded that the probation officer would seek a report if it was necessary. In the event none was obtained although there was telephone contact between the probation officer and the Youth Justice Agency.

The pre-sentence report

[15] The detailed pre-sentence report noted the appellant's young age, absence of previous convictions and that he lived with his mother, younger brother and sister who had been significantly impacted by the proceedings.

[16] He attended school and was currently in his GCSE year. He was shortly due to sit some GCSE examinations. He had obtained a summer job as a plasterer and had continued to work on a part-time basis, hoping to become a plasterer in future.

[17] Now 16, he reported that he drinks "a wee bit" and did not consider that to be an issue, maintaining that he had consumed one beer on the night of these offences. He does not use illicit drugs.

[18] The appellant's mother had reported concerns about her son's behaviour since he was a young child and although assessed for autism at the age of four, the diagnosis was separation anxiety. Prior to this offending, he had been placed on a waiting list for further assessment and in June 2025, he was diagnosed with ASD and ADHD and prescribed Concerta medication. Both the appellant and his mother stated that the medication was having a positive effect on his behaviour, helping his concentration and ability to control his temper and deal with stress.

[19] The appellant's account was that he was out with friends and relatives including an aunt, uncle and an even younger cousin when the victims, who were not known to him, shouted an insulting remark. Some kind of verbal dispute occurred and the appellant accepts that he then punched Mr McFeeters twice causing him to fall to the ground. He acknowledged kicking the victim around the head but could not say how many times. Despite evidence to the contrary from the CCTV, he denied stamping on the victim's head at any point. He claimed that Mr Kane then grabbed him by the throat and whilst he said his memory was "foggy", he accepted punching him. The probation officer concluded that he minimised his actions.

[20] He accepted that he should never have become involved in this altercation and that he should not have kicked the victim around the head under any circumstances. He claimed to have learned from this incident and would try and de-escalate such an incident in the future. He told the probation officer that he appreciated the impact his actions had had on the victims, his family and himself.

[21] The appellant is assessed as posing a low likelihood of reoffending, is considered remorseful and is not assessed as meeting the threshold for significant risk of serious harm to the public.

[22] The probation officer recorded the appellant's extreme anxiety at the prospect of detention and the impact on his GCSE examinations. He also noted the effect that detention would have on his family, in particular on his mother, the benefits of his employment and the need for ongoing medical reviews to monitor his medication.

[23] Other potential options were included in the report, including a period of suspended detention, statutory supervision or the imposition of a Community Responsibility Order which would be monitored by the Youth Justice Agency, focussing on citizenship alongside unpaid work. A Youth Conference Order was also available should the court consider it commensurate with the offending which would enable the appellant to examine his behaviour on the night and make amends to the victims.

[24] It is clear that in advance of passing sentence, the judge was anxious to ensure that she had all relevant medical evidence, including the impact that a lack of appropriate medication for ADHD may have had on his behaviour. A medical report from Dr Siona Hurley, Consultant Child and Adolescent Psychiatrist, was directed to comment on the appellant's behavioural issues prior to diagnosis, changes in behaviour since diagnosis and medication and if possible, to provide some insight into any link between aggressive behaviour and untreated medical issues.

[25] Dr Hurley confirmed that at the first medication review both the appellant and his father reported some positive effects including improvement in his concentration in school and a calmer presentation at home. At that time the appellant was on a lower dose than had been recommended.

[26] The behavioural issues identified at the initial assessment included conflict with school peers and siblings, difficulty regulating his emotions, defiant behaviour, lack of respect for authority and misinterpreting the intentions of others. Impulsivity and the need to be active were also identified along with a strong sense of right and wrong.

[27] At a second review, further positive effects of the medication were noted. In relation to a possible link between aggressive behaviour/acting out behaviour, Dr Hurley explained that behaviour is a complex interaction of many factors. Both autism and ADHD are considered to be neurodevelopmental conditions, with ADHD described as a condition that affects attention, impulse control and activity levels. On the other hand, autism is a social communication disorder which affects how someone communicates, interacts with and experiences the world. Although people with autism may see the world in a very concrete way and have a strong sense of what is right and wrong, which can lead to conflict when they see the

actions of others as unfair or unjust, it is not considered a medical condition that requires treatment.

[28] Although aggressive behaviour is not a core symptom or sign of either autism or ADHD, someone with those conditions may be more likely to act impulsively, potentially increasing the risk of acting out in a reactive or unplanned way. People with ADHD can also have difficulty regulating their emotions, finding it difficult to calm when overstimulated. Medication can help to reduce the impulsivity associated with that condition.

The sentencing hearing

[29] The judge set out her observations from the CCTV footage of the assault noting that there was something of an exchange between the victims and the appellant's group before the attack occurred, which she described as vicious and sustained. She noted the medical evidence, photographs of the injuries and the impact on the victims.

[30] She then referred to the guideline case of *DPP's Reference (numbers 2 and 3 of 2010) McAuley and Seaward* [2010] NICA 36 and *DPP's Reference (No 8, 9 and 10 of 2013) Newton, Doey and Doherty* [2013] NICA 38, noting relevant similarities and dissimilarities.

[31] The judge referred to the pre-sentence report and noted that having viewed the CCTV, some of the information provided by the appellant was "quite clearly … at best, inaccurate." Although he had denied some of the aspects of the assault to the probation officer, he now accepted the allegations in full.

[32] She referred to the appellant's young age, the absence of previous convictions, the fact that 18 months had elapsed since the offending occurred, his home circumstances and the fact that he was at a critical stage of his education. The judge had previously adjourned sentencing to enable some of his GCSE exams to be completed and was aware that others were to follow later in the year.

[33] The judge referred to Dr Hurley's report and in particular, her opinion that aggressive behaviour is not a core symptom or sign of either autism or ADHD, although it may result in impulsivity, the potential for reactive behaviour and dysregulated behaviour. The judge noted that the appellant had not been properly medicated at the time of the offending.

[34] Prosecuting counsel submitted that culpability and harm were both high "set against the fact that he was 14½ at the time" and left the question of risk for the judge to determine.

[35] The judge determined that on the basis of the guidance in *McAuley and Seaward,* the appropriate range of sentence for an adult was seven to fifteen years

after conviction and in this case, a starting point of nine years would have been appropriate, before reduction for a plea, which in all the circumstances, she assessed as around one third.

[36] Taking account of the case of *Newton, Doey and Doherty,* the judge noted that the defendant *Doey*, who was closest in age to this appellant (14 years and eight months at the time of the offence) was sentenced to three years in prison, with a starting point of four years for one offence of attempted grievous bodily harm, although he did have a background which included previous acts of violence. She contrasted this appellant's lack of previous convictions but also the more serious charges he faced.

[37] The judge noted the views expressed by the Court of Appeal that:

> "This was a difficult sentencing exercise. The learned trial judge may not have been aware of the extent of the appellant's previous involvement in street violence. His actions in this case raised serious issues concerning the protection of the public which need to be set beside his youth. We consider that the need for deterrence in this case was significant. We consider that the minimum appropriate sentence on a contest, in the *Doey* case, was four years detention, reducing that to 3 years because of his plea."

[38] Having determined the appropriate starting point in this case for an adult offender, the judge then reduced it from nine years to five years to reflect his young age, before reduction for the guilty plea, resulting in an overall sentence of three years and four months. Clearly, the judge was balancing the seriousness of the offending with the appellant's young age.

The sentencing of children

[39] The Criminal Justice (Children) (Northern Ireland) Order 1998 ("the 1998 Order") constitutes the principal statutory framework governing the criminal responsibility and sentencing of children in Northern Ireland. It establishes a distinct youth justice system, reflecting the reduced culpability of children, their greater capacity for rehabilitation, and the need for sentencing responses that are developmentally appropriate while remaining capable of addressing serious offending.

[40] Article 45(2) of the 1998 Order provides:

> "(2) where –

(a) a child is convicted on indictment of any offence punishable in the case of an adult with imprisonment for 14 years or more, not being an offence the sentence for which is fixed by law; and

(b) the court is of the opinion that none of the other methods in which the case may be dealt with is suitable,

the court may sentence the child to be detained for such period as may be specified in the sentence and where such a sentence has been passed the child shall, during that period, notwithstanding any other provisions of this order, be liable to be detained in such places under such conditions as the Secretary of State may direct."

[41] The judge is therefore required to consider all other methods of disposal. In order to do so, Article 33A of the 1998 Order provides for a court ordered youth conference. In a case involving offences triable only on indictment, the court is not required to refer the case to a youth conference coordinator for the purposes of convening a conference but has a discretion to do so where appropriate. Article 33A(4) requires the court to give reasons in open court, if it decides not to refer the case to a youth conference coordinator where it has the power to do so.

[42] Under section 53(6) the Justice (Northern Ireland) Act 2002 ("the 2002 Act"), a child is defined as a person under the age of 18. Section 53(1) of the 2002 Act states that the principal aim of the youth justice system is the protection of the public by the prevention of offending by children. There is a specific requirement, however, in relation to the welfare of children in section 53(3) of the 2002 Act:

"(3) But all such persons and bodies must also have regard to the welfare of children affected by the exercise of their functions (and to the general principle that any delay in dealing with children is likely to prejudice their welfare), with a view (in particular) to furthering their personal, social and educational development."

[43] This provision reflects article 3.1 of the United Nations Convention on the Rights of the Child which states that in all actions concerning children the best interests of the child shall be a primary consideration and para 5 of the Beijing Rules which states that the imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time. Whilst not directly enforceable, the UN Convention is an important guide to the interpretation of legislation.

[44] In *R v CK (a Minor)* [2009] NICA 17, the court considered the application of Article 45 of the 1998 Order in light of the importance of the child's welfare. At para [22], Kerr LCJ, observed:

> "… Examination of the suitability of alternative methods of dealing with the case other than by detention must take place against the backdrop of an imperative to do what is best for the child, while, of course, recognising the need to prevent offending by children. Moreover, where this concluded that detention is required, there is a need to focus on what is the minimum period that will accommodate that requirement."

[45] While particular regard must be paid to the importance of the rehabilitation of children, recognising that youth and immaturity may substantially reduce culpability, these factors have to be balanced against the requirements of retribution and deterrence. Consequently, the nature of the offending will be an important factor in determining where the balance lies.

[46] In *AG's Reference (No 65 of 2012)* [2012] EWCA Crim 3168, the approach to sentencing children involved in serious offending was considered. At para [16], the court said:

> "… The sentencing of young people can be and should often be more individualistic, and it should take into account, and often can, the real possibility of change for the better. But neither of those things permits a judge to disregard for the purposes of sentence the important exercise of assessing the gravity of what has been done, and that necessarily involves looking at the harm that has been done and at the defendant's culpability or blameworthiness."

[47] More recently, in view of the now greater understanding of child development, the approach to the sentencing of children has been considered in *R v ZA* [2023] EWCA Crim 596 at para [52]:

> "[52] It has been recognised for some time that the brains of young people are still developing up to the age of 25, particularly in the areas of the frontal cortex and hippocampus. These areas are the seat of emotional control, restraint, awareness of risk and the ability to appreciate the consequences of one's own and others' actions; in short, the processes of thought engaged in by, and the hallmark of, mature and responsible adults. It is also known that adverse childhood experiences,

> educational difficulties and mental health issues negatively affect the development of those adult thought processes. Accordingly, very particular considerations apply to sentencing children and young people who commit offences. It is categorically wrong to set about the sentencing of children and young people as if they are "mini- adults." An entirely different approach is required."

[48] There is a distinction in both the approach to sentencing and the custody/licence division in cases involving children compared to cases involving adults under the Criminal Justice (Northern Ireland) Order 2008 ("the 2008 Order"). The 2008 Order provides two separate regimes, one for ordinary adult offenders (DCS) where there is automatic remission after half the sentence has been served and the other which applies to "dangerous offenders" where release is the responsibility of the Parole Commissioners on a risk-assessed basis. In respect of a DCS, the judge may also specify a different custody/licence split increasing the licence period to reflect particular rehabilitative needs.

[49] In the case of a child, Article 45 of the 1998 Order requires the court to determine the appropriate sentence and the specific period of detention taking account of the seriousness of the child's offending, and thereafter the Parole Commissioners will determine when the child is safe to be released. Article 45(2A) provides:

> "(2A) Where a court passes a sentence under paragraph (2), the court shall specify such part of the sentence as the court considers appropriate as the relevant part of the sentence for the purposes of Article 46 (release on licence)."

Article 46(2) of the 1998 Order provides:

> "(2) As soon as-
>
> (a) [the detained person] has served the relevant part of [the person's sentence], and
>
> (b) [the Parole Commissioners] have directed [the person's release] under this Article,
>
> the Department shall release [the person] on licence."

Article 46(3) provides:

> "(3) The Commissioners shall not give a direction under paragraph (2) with respect to [the person] unless-
>
> (a) the Department has referred [the person's] case to the Commissioners and
>
> (b) the Commissioners are satisfied that it is no longer necessary for the protection of the public from serious harm that [the person] should be detained."

As Kerr LCJ said at para [27] of *CK*, "Remission, in its commonly held sense does not exist for persons such as the appellant who are detained under Article 45."

[50] Neither the provisions of Article 45 nor Article 33A of the 1998 Order were brought to the judge's attention. In particular, the benefit of referring the case to a youth conference coordinator was not explained by either prosecuting or defence counsel.

[51] The Youth Justice Agency deals with offences of all types and seriousness, save for murder and/or manslaughter. The focus of the youth conference process is the harm and consequences of the child's behaviour with a view to ascertaining the underlying reasons for offending, supports that might be put in place to address the risk of further offending and what can be done by the child to make amends to the victim.

[52] The benefit of the process is the involvement of relevant persons including the child, family members and appropriate professionals including police, the PPS, the school and medical practitioners who can assist in the development of an agreed plan with the expectation that it will result in the child's rehabilitation.

[53] The court is not bound by the recommendations of the report or the youth conference plan and can amend, vary or disregard it. Detention as an option will be considered and if a sentence of detention is determined by the court, a youth conference order can still be put in place because it can be implemented whilst the child is in a custodial setting.

[54] Evidently, the purpose of referring a case for a youth conference report is wider than simply obtaining relevant pre-sentence information. This court directed a report and while submissions by counsel focussed on a comparison of the information contained in it and the careful and detailed probation report, in our view, this misses the point. The advantage of the youth conference process is the child specific plan with the prospects for rehabilitation likely to be enhanced.

[55] In this case, the youth conference report we received was important in a number of respects. Two character references were attached, one from Mr Francie Ferris of the Resurgam Trust Youth Initiative, and the other from Hannah Brown, Centre Manager YMCA Lisburn. The appellant has been part of the Resurgam Youth Initiative for ten years, has been involved in many social impact projects and is regarded as a good role model for young people. Mr Ferris described the appellant's offending as "extremely out of character."

[56] Mr Ferris has experience working with the Youth Justice Agency in a range of interventions related to personal development and anger management. He anticipates using these skills to support the appellant in the future to ensure that he has a space to come if and when he needs it. He also confirmed that the appellant's family has engaged with the initiative since its beginnings.

[57] Ms Brown has worked with the appellant for approximately three years during which he has consistently engaged in the youth provision in Lisburn YMCA. She described him as respectful, engaging and a positive young person. He has participated in a wide range of structured youth programmes, including group work focused on risk taking behaviour and good relations. She described his increasing maturity, particularly in relation to his ability to reflect on decisions, engage in meaningful discussion and show respect for the perspectives of others.

[58] Ms Brown described summer programmes including residentials and camping experiences where the appellant acted as a positive role model to younger members, showing a willingness to take on responsibilities and assisting staff where appropriate. In her professional experience she was confident of his strong potential, empathy and the ability to positively influence those around him.

[59] Since his incarceration in Woodlands Juvenile Justice Centre, the appellant has continued to engage well in his education and has enrolled for his GCSE examinations. He has accessed additional educational and vocational programmes including agriculture and barbering and has reported increased enjoyment and engagement in learning. As part of the youth conference, the Head of Pastoral Care at the appellant's school was consulted. She described him as a friendly and well liked pupil with generally good attendance prior to April 2024 although there were some minor behavioural issues resulting in brief periods of detention or suspension. After the offences were committed, a decline in school attendance was noted along with a sense that he had lost hope, in light of the potential for a custodial sentence.

[60] In the custodial setting he has engaged in therapeutic interventions with the Mental Health Service which recommended a referral to the Child and Adolescent Mental Health Services ("CAMHS") due to his experience of early childhood trauma and the emotional impact of both the offending and the custodial sentence imposed.

[61] It also emerged in the youth conference report that the appellant has been known to the Youth Justice Agency since 2023. On 23 January 2023, he was the

subject of a Community Resolution Notice ("CRN") in relation to an incident involving stone throwing at a residential property and a further CRN was imposed for common assault against a school peer on 7 November 2023. He also participated in a diversionary youth conference concerning motor related offences on 11 August 2025.

[62] Having assessed the appellant's intervention needs, he is assessed as having a low level of need and a low likelihood of future offending.

[63] The victims were approached and invited to attend the conference but declined to do so. The police officer who took part in the conference challenged the appellant about the vicious and sustained attack making it clear that the impact of such assaults can be fatal. The views of the victims were shared with him, and he was observed to have listened attentively, expressing the wish to apologise, had the victims attended.

[64] At the end of the process a plan was agreed which included the appellant writing a letter of apology and what he had learned from his behaviour, the completion of 80 hours unpaid community work within 12 months and a 12 month period of supervision focusing on offence related work including completion of the "Just One Punch" programme.

[65] An update from Mr David Hanna, the senior teacher who had provided a Woodlands College report, was also attached to the youth conference report. He explained that the college had worked closely with the appellant's school to ensure that he could access as much of their curriculum as possible whilst also following the separate educational offerings at Woodlands. He expressed every confidence that the appellant would be successful in all of the qualifications he is seeking to attain and that he will be in a position to enter a level II apprenticeship course at the South-Eastern Regional College in September 2026.

[66] He is currently in the process of applying for this course. If the appellant is still in custody at that time, a new educational plan will have to be developed and although there are further vocational skills qualifications that can be completed at Woodlands, nothing would match this opportunity.

Sentencing options

[67] Before this court, counsel accepted that there were a number of sentencing options open to the judge when sentencing a youth in the Crown Court. The court accepts that a DCS is not one of these. The options are:

(i) A Youth Conference Order, endorsing the plan in the youth conference report.

(ii) A Juvenile Justice Centre Order ('JJCO') of between six months and two years.

(iii) A period of detention under Article 45 of the 1998 Order for "grave crimes."

(iv) A Youth Conference Order and either a JJCO or detention under Article 45 of the 1998 Order.

(v) A period of detention under Article 45 of the 1998 Order and a specified period of licence.

(vi) Whilst the remaining options are unlikely to be commensurate with the offending, there are other options in the form of Community Responsibility Orders, Attendance Centre Orders and Reparation Orders.

(vi) It was also noted that a person between the ages of 16 and under 21 may be sentenced to detention in a Young Offenders Centre by virtue of section 5 of the Treatment of Offenders Act (Northern Ireland) 1968 for a period of up to four years. This would be Hydebank. No assessment has been made by either PBNI or the YJA as to the suitability of this option for the appellant and so it is a technical option only.

Consideration

[68] In our view, the fact that this was a very serious case where detention was virtually inevitable, pointed towards rather than against, a court direction for a youth conference report, particularly in light of the appellant's very young age at the date of offending. Although it is not mandatory in a case involving indictable offences, we consider that a report should be directed in all cases where detention is likely to be imposed on a child unless there are good reasons not to do so, which must be clearly articulated.

[69] Having taken into account the information in both the youth conference report and the pre-sentence report and having considered the other methods of disposal, we agree with the judge that the offending was so serious that only a period of detention is appropriate in this case.

[70] The problem of wanton violence by young males, including teenagers, is so prevalent that deterrent sentences are required. We agree with the judge that had the appellant been an adult, a starting point of nine years in prison would have been justified. However, where the court is dealing with a very young teenager, as in this case, care must be taken to ensure that detention is imposed for the shortest appropriate period. The youth conference plan and the attached references have been of assistance to us in determining this issue.

[71] Furthermore we consider that *McAuley and Seaward* is not an apt guideline case for child offenders. The better guideline case is *Newton, Doey and Doherty* which specifically deals with child offending.

[72] In our view, a starting point of five years after trial failed to adequately distinguish this child from an adult offender or to properly reflect the welfare considerations. There are strong welfare features in this case. The appellant's mother had been seeking help for his behavioural issues since his early childhood, without success. He was on a waiting list for ASD and ADHD assessment at the time of the offending and it was not until 2025 that he was diagnosed and appropriately medicated. Since then, there has been a noticeable improvement in his behaviour and tolerance of others. This does not in any way excuse the violence inflicted on Mr McFeeters or Mr Kane, but it does provide some context.

[73] It is also evident from the youth conference report, and the additional information provided, that this child has the potential to make a positive contribution to the community as he matures. Furthermore, this behaviour was out of character and the appellant has the will and ability to cooperate with professionals and statutory services. The information we have received which the trial judge did not have presents a positive picture and supports the assessment of PBNI that there is a low risk of repeat offending in the future. The implementation of the educational plan is likely to contribute to his rehabilitation and is a material factor when deciding upon the correct sentence for a child such as the appellant.

[74] Cases such as this are intensely fact sensitive. That is why we do not suggest the application of rigid guidelines in this area. Despite the new material we have received we are not minded to impose a non-custodial option as recommended in the youth conference report. That is because of the seriousness of the offending. However, cognisant of the strong factors which support rehabilitation, we are minded to adjust the starting point. We stress that we take this approach having had the benefit of much fuller information than the trial judge had including the youth conference report which we ordered.

[75] A sentence of detention under Article 45 of the 1998 Order may be imposed where the maximum sentence is 14 years or more. That requirement is met in this case since the maximum sentence is life imprisonment.

[76] Drawing all of the above together, we consider that a starting point of three years' detention under article 45 is appropriate in light of the appellant's young age. We agree that he was entitled to a reduction of one third to reflect the guilty plea. We therefore impose a sentence of two years comprising 12 months detention on both counts concurrently. In our view, such a disposal strikes the correct balance between punishment and deterrence on the one hand and the child's welfare on the other. The added protection for the public is that when the period of detention we have imposed has been served, the Parole Commissioners will decide whether the appellant should be released on licence based on a risk assessment. Accordingly, the appeal is allowed in part to the extent indicated.