

Breaking the Cycle of At-Risk Behaviour in Youths:
Singapore’s 2020 Family Guidance Order*

I. Introduction

1. It is no secret that children and youths are often rowdy and mischievous. The real problem arises when mischief turns into criminal activity. Faced with extreme troublemakers who may have stepped foot into illegality, what can parents do?
2. Children and young persons (“**CYPs**”) who engage in behaviour that puts them at risk of committing criminal offences are classified as “youths-at-risk” by the Ministry of Social and Family Development (“**MSF**”).¹ To identify “youths-at-risk”, MSF taps into its outreach programmes, such as the Enhanced STEP-UP and Youth GO! Programme that supports youths at risk of dropping out of school or are out of school, and youths who are out of school and not working respectively.² MSF also has an early intervention framework, the Youth-At-Risk Engagement (“**YARE**”) framework, to support such youths by utilising risk assessments and evidence-based programmes.³
3. These policies provide the earlier measures to support “youths-at-risk”. However, if parents are unable to handle their youths, the Family Guidance Order (“**FGO**”),⁴ previously known as the Beyond Parental Control (“**BPC**”) order,⁵ can be considered as a last resort.⁶
4. Before 1 July 2020, under section 50 of the 2001 Children and Young Persons Act (“**CYPA**”),⁷ applications for BPC orders were filed by the parents of such CYPs. If the application were allowed, the CYP would be remanded at a place of safety⁸ like the Singapore Boys’ Home or Singapore Girls’ Home (“**Youth Homes**”).

* Written by Alexis Lok, Year 2 LL.B. Undergraduate, Yong Pung How School of Law, Singapore Management University, and Nicolette Ang, Year 2 LL.B. Undergraduate, Yong Pung How School of Law, Singapore Management University.

¹ Ministry of Social and Family Development, “National Committee on Youth Guidance and Rehabilitation: About Us” < <https://www.msf.gov.sg/NYGR/About-us/Pages/default.aspx> > (accessed 13 August 2021).

² Ministry of Social and Family Development, “Outreach & Support For Youth” < <https://www.msf.gov.sg/policies/Children-and-Youth/Rebuilding-Children-and-Youth/Outreach-and-Support-for-Youth/Pages/default.aspx> > (accessed 17 September 2021).

³ Ministry of Social and Family Development, “Youth-At-Risk Engagement (YARE) Framework” < [https://www.msf.gov.sg/policies/Children-and-Youth/Rebuilding-Children-and-Youth/Outreach-and-Support-for-Youth/Pages/Youth-At-Risk-Engagement-\(YARE\)-Framework.aspx](https://www.msf.gov.sg/policies/Children-and-Youth/Rebuilding-Children-and-Youth/Outreach-and-Support-for-Youth/Pages/Youth-At-Risk-Engagement-(YARE)-Framework.aspx) > (accessed 17 September 2021).

⁴ Children and Young Persons (Amendment) 2019 (Act 30 of 2019) c1 43.

⁵ Singapore Courts, “Family guidance orders: overview” < <https://www.judiciary.gov.sg/family/family-guidance-orders-overview> > (accessed 10 January 2022).

⁶ Ministry of Social and Family Development, “Apply for a family guidance order”, < <https://www.judiciary.gov.sg/family/apply-family-guidance-order> > (accessed 11 January 2022).

⁷ Children and Young Persons Act (Cap 38, 2001 Rev Ed) s 50 (“CYPA”).

⁸ CYPA (Cap 38, 2001 Rev Ed) s50(1).

5. Unfortunately, intervention through remand at the Youth Homes is not always successful. CYPs who have breached their orders during their term of residence at the Youth Homes and were sentenced to Reformatory Training/ Prisons have generally increased from 2011 to 2020,⁹ with 2019 seeing the lowest completion rate (of Youth Home programmes) of only 80.4% in this period.¹⁰
6. Despite the state's efforts to divert CYPs away from a life of crime, the above statistical trend reflects certain inefficiencies of the original BPC regime. Recognising this, MSF introduced a bill to amend the original CYPA, which was passed in Parliament in 2019.¹¹ Following the amendment, the BPC model was repealed and replaced with the FGO, which came into force on 1 July 2020.¹² This paper takes a closer look at the FGO model by:
 - (a) highlighting the key changes between the old BPC and the new FGO model,
 - (b) deciphering when an FGO application should be made, and
 - (c) proposing some recommendations to improve the current FGO model.

II. Comparing the BPC and the FGO models

A. *The original BPC model*

7. Under the old model, applications to the Youth Courts for a BPC order were made against a CYP who had displayed at-risk behaviour.¹³ While there are no exact measures to identify at-risk behaviour, BPC orders have historically been granted to CYPs who display what is traditionally considered delinquent behaviour. This includes truancy, underage sexual relations, involvement in secret societies, and violent behaviour.¹⁴

⁹ Ministry of Social and Family Development, "MSF Youth Homes: Completion & Recidivism Rate" <<https://www.msf.gov.sg/research-and-data/Research-and-Statistics/Pages/MSF-Youth-Homes-Completion-Recidivism-Rate.aspx>> (accessed 17 September 2021).

¹⁰ *Ibid.*

¹¹ Children and Young Persons (Amendment) Bill (Bill 22 of 2019).

¹² *Supra* n 4.

¹³ *Supra* n 8.

¹⁴ Singapore Legal Advice, "Parents' Guide to Beyond Parental Control Orders in Singapore" (28 April 2021) <<https://singaporelegaladvice.com/law-articles/what-is-a-beyond-parental-control-order/>> (accessed 10 January 2022).

8. Thereafter, a counsellor from the Singapore Children’s Society would conduct an interview to determine if the BPC order should be affirmed in the Youth Courts or if the CYP was better suited for a community-based pre-court diversionary programme, which could last up to twelve months.¹⁵
9. Such diversionary programmes are distinct from remandment at Youth Homes. For instance, they include individual, group-based and family sessions.¹⁶ As an example, the Streetwise Programme targets CYPs who associate with gangs and includes counselling and group work sessions that focus on building the CYP’s self-efficacy.¹⁷
10. If the BPC order were affirmed in the Youth Courts, the CYP would be remanded at the Youth Homes, pending interviews with an officer from the MSF or a social worker from the Singapore Children’s Society.¹⁸ While there is no specified minimum duration for which CYPs have to be remanded at the Youth Homes, the duration of any order or any combination of orders made by the court must not exceed a continuous period of 3 years.¹⁹ Alternatively, the CYP may be ordered by the Youth Courts to reside in a Place of Safety, such as a relative’s residence or a foster home²⁰ or be placed under supervision for up to three years under an approved welfare officer.²¹

B. Impetus for Change

11. The original BPC model was problematic and had several key gaps, as highlighted during the reading of the 2019 CYPA Amendment Bill. First, the model placed too much blame on the recalcitrant CYP.²² For instance, orders could only be made for detention and rehabilitation. Such a model made the CYP solely responsible for their at-risk behaviour and had potential negative psychological effects on the CYP. Second, the original BPC model fell short in addressing poor parent-CYP relationships and parenting.²³ These flaws exacerbated the at-risk behaviour of the CYPs and contributed to pervasive issues of contempt and recidivism.

¹⁵ Ministry of Social and Family Development, “Pre-Court Diversionary Programmes” <<https://www.msf.gov.sg/policies/Rehabilitation-of-Offenders/Community-based-Rehabilitation/Pages/Pre-Court-Diversionary-Programmes.aspx>> (accessed 11 January 2022).

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Supra* n 14.

¹⁹ *Supra* n 8.

²⁰ Ministry of Social and Family Development, “Protecting the Safety and Well-being of Children” <<https://www.msf.gov.sg/policies/Strong-and-Stable-Families/Nurturing-and-Protecting-the-Young/Child-Protection-Welfare/Pages/Protecting-Children.aspx>> (accessed 13 August 2021).

²¹ CYPA (Cap 38, 2001 Rev Ed) s50(1)(i).

²² *Singapore Parliamentary Debates, Official Report* (3 September 2019) vol 94 (Mr Desmond Lee, Minister for Social and Family Development and Second Minister for National Development and Deputy Leader of the House).

²³ *Ibid.*

12. For instance, in the case of *Public Prosecutor v GCJ*,²⁴ GCJ (the CYP) was remanded under a BPC order made against him in July 2015. During home leave in December 2016, the youth committed robbery. Even though a Juvenile Rehabilitation Centre Order was later made against him in February 2017, he was subsequently charged with another count of robbery as well as a count of unlawful possession of an offensive weapon. This case illustrates the potential issues of contempt and recidivism in CYPs under the original BPC procedure.

C. Changes Made through the FGO

13. In response to the shortcomings of the original BPC model, the FGO was introduced in the 2019 CYPA Amendment Bill. The FGO implemented two procedural changes aimed at emphasising the role of one's family in targeting at-risk behaviour:
- a. Introducing pre-court order application programmes; and
 - b. Allowing the court to make orders before, during and after an FGO application has been heard.
14. First, parents who wish to apply for an FGO must first arrange a pre-application screening with either the Singapore Children's Society or Epworth Community Services.²⁵ Both parents and CYP must also attend a mandatory family programme before an FGO application may be made.²⁶ The pre-FGO programmes, which last for 6 months,²⁷ are designed to work directly with at-risk CYPs on their challenging behaviours, help parents with their parenting skills and aid both in building better family relationships.²⁸ These programmes are distinct from the screening interviews and diversionary programmes under the BPC model in that they require *both* parents and children to take steps towards improving their relationship.

²⁴ *Public Prosecutor v GCJ* [2018] SGYC 2.

²⁵ Ministry of Social and Family Development, "Family Guidance Order" <<https://www.msf.gov.sg/policies/Children-and-Youth/Pages/Family-Guidance-Order.aspx>> (accessed 10 August 2021).

²⁶ CYPA (Cap 38, 2020 Rev Ed) s 59(1)(b).

²⁷ Ministry of Social and Family Development, "Parent & Youth Programmes" <<https://www.msf.gov.sg/NYGR/Our-Programmes/Promoting-Prevention-Strategies/Pages/Parent-Youth-Programmes.aspx>> (accessed 17 September 2021).

²⁸ Epworth Community Services, "Epworth Family Welfare" <<https://www.epworth.sg/programmes-services/epworth-family-welfare/>> (accessed 17 September 2021).

15. Second, another key difference between the two models concerns when court intervention may be carried out. Under the FGO model, court orders may be made for parents to attend mediation, counselling and psychotherapy²⁹ before, during, or after an FGO application has been heard,³⁰ akin to the Parenting Orders found in the United Kingdom.³¹ This FGO procedure is distinct from that under the BPC model, where such court orders may only be made after a BPC order has been made for the CYP.³²
16. The procedural changes in the youth-at-risk process are likely to prove more helpful in addressing the root cause of behavioural issues in CYPs. The family-centric model more accurately targets the social needs CYPs seek in engaging in at-risk behaviour by promoting familial support and social integration. Allowing the court to order attendance for various programmes at any point during the FGO application also allows for more efficient and targeted intervention.
17. Furthermore, should the programmes prove successful in resolving the conflict between parents or guardians and the CYP, this procedural change reduces the need for both parties to go through a possibly onerous court hearing process.
 - i. *When should one apply for an FGO?*
18. Parents and guardians may apply for an FGO for a CYP under 16 years of age that has displayed severe behavioural challenges.³³ Before applying for an FGO, parents and guardians should also be certain that they cannot guide the CYP and that the CYP needs to be guided by someone other than his or her parents or guardians; this is one of the requirements by the court in granting an FGO.³⁴ Importantly, parents and guardians should seek to apply for an FGO only as a last resort.³⁵
19. Parents and guardians may wonder if their CYP's behaviour meets the threshold of at-risk behaviour for the court to grant an FGO. In this regard, the current mandatory pre-application screening will suffice, without the need for specific benchmarks, to maintain the court's flexibility in granting FGO orders. The court should consider each behavioural pattern within its specific circumstances.

²⁹ CYPA (Cap 38, 2020 Rev Ed) s 60(4)(a).

³⁰ CYPA (Cap 38, 2020 Rev Ed) s 60(3).

³¹ Crime and Disorder Act 1998, (c 37)(UK), s8 (7A).

³² *Supra* n 23.

³³ CYPA (Cap 38, 2020 Rev Ed) s 59(1).

³⁴ CYPA (Cap 38, 2020 Rev Ed) s 59(1)(a).

³⁵ *Supra* n 6.

III. Recommendations

20. While the recent changes were much needed, the authors provide further suggestions to improve the current FGO:
 - a. Mandating that parents regularly meet their CYP for the entire duration of the FGO; and
 - b. Encouraging the court to appoint a Child Representative to support the CYP in FGO court proceedings.

A. *Recommendation 1: Mandating regular meetups with CYP*

21. The authors recommend regular meetups between the parents or guardians with the CYP, which should help improve the parent-CYP relationship.³⁶

i. Singapore's current framework is insufficient

22. Currently, section 59(13)(c) of the CYPA³⁷ states that the court may order the parents or guardians to enter a bond to commit their best efforts to exercise proper care and guardianship. While this may indicate Singapore's acknowledgement of parental and guardian responsibility in FGO cases and intent to engage parents and guardians in the rehabilitation of the CYP, the authors posit that the current framework is lacking.
23. Specifically, the benchmark for one's "best efforts" in this regard is unclear. Hence, Recommendation 1 ensures parents and guardians' substantial effort in the rehabilitation of the CYP. By attending regular meetups with the CYP, the parents or guardians would be more likely to be committing their "best efforts", as understood in everyday terms.
24. Indeed, other jurisdictions have implemented regulations to mandate regular meetups between CYPs and their parents or guardians. For instance, Malaysia's laws on children beyond control involve mandating regular meetups between the parent or guardian with the child. According to Malaysia's Child Act section 40(7)(a),³⁸ the Court For Children has the discretion to order the parent or guardian of the child (who needs protection or rehabilitation) to visit the child at the place of refuge regularly. This is an appropriate precedent for Singapore, considering the two jurisdictions' relative similarity in values and laws. However, a potential concern would be whether it would be practical to force an unwilling parent or guardian to attend regular meetups with the CYP.

³⁶ Åse Bjørseth, Lars Wichstrøm, "Effectiveness of Parent-Child Interaction Therapy (PCIT) in the Treatment of Young Children's Behaviour Problems. A Randomized Controlled Study" PLoS ONE 2016; 11(9): 1-19, at 2.

³⁷ CYPA (Cap 38, 2020 Rev Ed) s 59(13)(c).

³⁸ Child Act 2001 (No 611 of 2001) (M'sia) s 40(7)(a).

ii. *Recommendation 1 is feasible*

25. Parents and guardians have the primary responsibility for the upbringing and development of the CYP, as expressed in Article 18(1) of the 1989 United Nations Convention on the Rights of the Child (“**UNCRC**”).³⁹ As a signatory to the UNCRC, Singapore has incorporated parental responsibility as a core principle in Singapore law since the Women’s Charter was enacted in 1961.⁴⁰
26. By mandating regular meetups between the parents or guardians and the CYP, the parents or guardians fulfil their caretaking responsibility. It would also not be an unreasonable task given that parents or guardians need not maintain their CYP financially when the CYP is remanded at the Youth Homes.
27. Understandably, meetups may be difficult due to the existing tension between the parties. Thus, the authors suggest that the meetups be guided by a counsellor to ensure that the parents or guardians and the CYP better understand each other and make progress in mending their relationship. Even if CYPs lack existing support from their parents or guardians, they should be assured of the importance of familial bonds nonetheless, and avenues to such bonds should be facilitated.
28. While we may need to empathise with parents’ and guardians’ emotional wellbeing in the FGO proceedings, we also need to understand that a CYP who has become uncontrollable is not entirely at fault. This should be made apparent to the CYP, given that his or her parents or guardians had a role to play in his or her development. With this recommendation implemented, Singapore’s laws on “youths-at-risk” can better reflect the mutual responsibility (parent or guardian and the CYP) involved when a CYP becomes uncontrollable.

³⁹ United Nations Convention on the Rights of the Child (“**UNCRC**”) Article 18(1).

⁴⁰ The Family Law Review Working Group, Family Justice Courts, *Report of the Family Law Review Working Group – Recommendations for Guardianship Reform in Singapore* (23 March 2016) at para 3 (Chairman: Judicial Commissioner Valerie Thean).

B. Recommendation 2: Appointing a Child Representative to support the CYP in FGO court proceedings

29. The authors recommend that a court-appointed Child Representative represent every CYP during court proceedings. This provides the CYP with better legal and emotional support and allows the court to reach a more informed decision.
- i. Singapore’s current framework is insufficient*
30. Presently, the Family Justice Courts *may* order that a Child Representative be appointed in cases where a child is a party to or subject of any action or where the action involves a child or the custody or welfare of the child.⁴¹ However, the CYP is not guaranteed the support of a Child Representative.⁴²
- ii. Advantages of appointing a Child Representative*
31. While a Child Representative is not a lawyer, he or she has a similar capacity to represent the voice of the CYP and involve the CYP in decisions that will impact his or her future.⁴³ Further, while the services of a Child Representative would be remunerated by the parties (at approximately \$1000)⁴⁴ (i.e. the parents or guardians of the CYP) unless the parties are legally aided, this would likely be at a lower cost than that of a lawyer’s and would be more financially viable.
32. Being involved in court proceedings can also cause stress that may be amplified in CYPs who cannot handle their emotions well, especially when standing against family members and the Judge during court proceedings. Unlike divorce proceedings, for example, where the court focuses more on the couple’s relationship, the CYP, in the context of the FGO proceeding, would be facing allegations of his or her uncontrollable behaviour. Thus, there is a real need for the emotional support of a Child Representative.
33. Additionally, with the aid of a Child Representative familiar with the court proceedings, court proceedings can take place more effectively and efficiently, allowing the court to reach a more informed decision.

⁴¹ Singapore Courts, “Child representatives” < <https://www.judiciary.gov.sg/legal-help-support/child-representatives> > (accessed 8 January 2022).

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

IV. Further Issues: The Period of Institutionalisation which arises in an FGO proceeding

34. The authors have made two recommendations to better the current FGO model. However, not all issues can be addressed via legal changes. One remaining key challenge is the disadvantages that CYPs may face in the future because of their record of institutionalisation in the Youth Homes.
35. When a CYP undergoes FGO proceedings, their criminal record will usually be spent (removed from their records) by the time the FGO ends.⁴⁵ The issue lies in the fact that there will still be a record of institutionalisation that may lower the chances of the CYP enrolling into institutions of education and getting employed. Would it do good to remove the record of the period of institutionalisation completely?
36. From a legal standpoint, removing a CYP's record of institutionalisation may not be necessary at this juncture. The CYPA currently provides that identity information of a CYP who was involved in an FGO proceeding should not be published.⁴⁶ This suggests that existing legal provisions already prevent the disclosure of institutionalisation records, where such disclosures would be voluntary.
37. Instead, this problem may only be mitigated by creating a shift in public perception of those who have been remanded in the Youth Homes. If university application officers and employers are willing to empathise with those with a history of institutionalisation and accept that they have changed for the better, records of institutionalisation will not impede the reintegration of such CYPs into society regardless of whether they are disclosed. In this regard, more effort could be made by the other ministries, such as the Ministry of Education and the Ministry of Manpower, to ensure that CYPs will not be discriminated against after undergoing the FGO proceedings.

V. Conclusion

38. The ascending trend in the number of cases of contempt and recidivism in the context of the original BPC model over the past decade may have reflected a certain degree of inefficacy in Singapore's efforts in addressing youth behavioural issues. With the introduction of the FGO, the blame for the at-risk behaviour is more evenly shared between the CYP and the parents or guardians and, there is an increased focus on addressing the problem of poor parent-CYP relationships.

⁴⁵ Registration of Criminals Act (Cap 268, 2020 Rev Ed) s 7DA(2)(a).

⁴⁶ CYPA (Cap 38, 2020 Rev Ed) s 112(1).

39. While the FGO is a good improvement to family law in Singapore, more can be done to better the current FGO model. Mandating regular meetups between the parents or guardians and the CYP and encouraging the court to appoint Child Representatives in court proceedings would further the positive impact of the FGO. This would allow Singapore to recognise to a greater extent the importance of parents' long-term support in CYPs' development, as well as CYPs' need for legal and emotional support throughout the FGO process. That being said, legal and procedural changes can only go so far — widespread recognition of the importance of supportive family units and the recalcitrant CYPs' potential to turn over a new leaf is also instrumental to long-lasting change.