**CHAPTER 25**

1.  The young person should generally be tried in the youth court, but there are exceptions to this, depending on whether the young person is facing a charge of homicide or a ‘grave’ crime, or is jointly charged with an adult facing an offence which is to be tried on indictment or may come within the ‘dangerousness’ provisions (see diagram at the end of Chapter 25).

2.  Tracey is 15 and will therefore appear before the youth court. She faces an offence that is triable either way. Tracey will have no right of election. The youth court will consider whether this case should be sent to the Crown Court under s. 51A(3)(b) CDA 1998 as a ‘grave’ crime, having regard to the seriousness of the offence and its maximum power of punishment, which is a two-year DTO. The justices’ legal adviser will need to give advice on sentencing guidelines for this type of offence. Tracey is not charged with an aggravated offence of arson with intent to endanger life. However, the offence is serious and may attract a custodial sentence. The youth courts’ maximum sentencing power of up to a 24 month DTO should be sufficient.

3.  Barry faces a charge which carries a maximum custodial sentence of 14 years in the case of an adult. It therefore falls within the definition of a ‘grave’ crime. It is also a ‘specified’ offence for the purposes of the ‘dangerousness’ provisions. It is likely but not certain that the youth court will decline jurisdiction in this case under the grave crime provisions. You would need to research the specific sentencing guidelines for the offence of causing death by dangerous driving. The guidance issued by the Sentencing Guidelines Council both for the specific offence and its Overarching Principles for Sentencing Youths (November 2009) would need to be considered. Making an allowance for Barry’s age, and having regard to the offence-specific guidelines, if the youth court concludes that the offence is of such gravity that a sentence substantially beyond the two-year maximum for a detention and training order is a realistic possibility, it must commit for trial under the ‘grave crime’ provisions. Although death by dangerous driving is a specified offence within the ‘dangerousness’ provisions, recent case law and CPS guidance provides that a determination of dangerousness can often not be made until the youth court has access to a full risk assessment (which is usually made post-conviction in a pre-sentence report) with the result that there will be few cases in which it will be appropriate to send for trial under s. 51A(3)(d) CDA 1998.