



Department
for Education



Home Office

23 October 2015

Dear Directors of Children's Services,

On Monday 26 October 2015, section 42 of the Criminal Justice and Courts Act 2014 will come into force, extending the requirement set out in section 38(6) of the Police and Criminal Evidence Act (PACE) 1984 in relation to transferring children aged 10 to 16 years old to local authority accommodation. From that date, the police will be required to transfer 17 year olds to local authority accommodation when charged and denied bail; local authorities will be responsible for identifying and providing that accommodation.

This is an important legislative measure, signalling the priority that the Government places on protecting the welfare of children. This change was clearly set out in the joint letter from the Home Secretary and Minister of State for Education on 20 January 2015, which also drew your attention to the serious problems some areas face with the operation of PACE section 38(6). That letter stressed the need for local authorities and the police to work closely together to ensure that the law is being adhered to. A copy of the letter is separately attached.

Since January, the Home Secretary has commissioned a dedicated Working Group on Section 38(6) the remit of which is better to understand and address the specific failures around this important legislation and thereby assist both the police and local authorities in meeting their respective statutory responsibilities. To date the group, which includes representatives from the police, Youth Justice Board, National Appropriate Adult Network, Ofsted and local authorities, has examined the problems that both the police and local authorities experience and is developing a package of measures: these will include the publication of a cross-government concordat, focussed on clarifying each agency's statutory duties and setting out best practice to ensure that these are met, as well as delivering training through the College of Policing.

Evidence presented to the Working Group suggests that, contrary to section 38(6) of PACE, and the duty under section 11 of the Children's Act 2004 to safeguard and promote the welfare of children, children continue to be held in police custody in breach of the legislative requirement. With the extension of protection to 17 year olds shortly to be commenced, it is absolutely vital that the police and local authorities work together to resolve outstanding difficulties so that all persons under 18 are appropriately transferred from custody and placed by local authorities in a suitable environment.

Finally, as the change to the law represents a new requirement on local authorities, the Government is working to ensure that funding to offset any additional costs is made available. Further information will be circulated in due course.

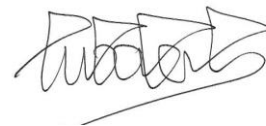
Should you have any questions about this change, please contact Laura Griffin at Laura.Griffin1@homeoffice.gsi.gov.uk in the first instance.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Kissack', with a horizontal line underneath.

Paul Kissack

Director General
Children's Services and Departmental Strategy
Department for Education

A handwritten signature in black ink, appearing to read 'Mary Calam', with a horizontal line underneath.

Mary Calam

Director General
Crime and Policing Group
Home Office