

## PACE BEDS

# Guidance for Luton YOS, Bedfordshire Police, Luton Borough Council & EDT Workers

### Introduction

If children and young people under the age of 18 are denied police bail (ie held for court), they will usually be transferred to local authority accommodation under section 38 (6) of PACE (commonly referred to as a PACE Bed). PACE transfers take place in order to limit the amount of time children & young people are required to spend in police custody.

The Children Act 1989 s21 (2) provides that 'Every local authority shall receive, and provide accommodation for children whom they are requested to receive under section 38 (6) of PACE 1984'.

Local authorities have their own test to determine how to place a child, which centers on the welfare of the child, ie, a child aged over 12 must be either likely to abscond or injure themselves or others (Children (Secure Accommodation) Regulations 1991 regulation 6(1)(a) modifying Children Act 1989 section 25(1) ). Children aged 10 or 11 must, in addition to the above, have a history of absconding.

Custody officers have a crucial role to play in providing information that will help local authorities to make a decision. They should give the precise reasons for refusing bail and the rationale behind this. The police should also provide all information relating to risk of absconding, offending history, mental health, familial circumstances and any other information which would help the local authority to determine the appropriate placement for the child/young person.

The law is clear that it is the responsibility of the local authority to determine the **type** of accommodation the child requires, not the police. This could be the home address of the Young Person.

The responsibility for the child or young person placed in a PACE Bed passes from the police to the local authority. This transfer of responsibility includes transfer of the power to detain them, and responsibility for ensuring that they appear at court (in accordance with Section 46 of PACE).

Any child who is placed in a PACE Bed must be supervised at all times i.e: may not go out unaccompanied and must be escorted to and supervised at Court by whether the PACE carer or a dedicated member of Children's Social Care. If they abscond at any time this must be reported IMMEDIATELY and they may be charged by the police with an offence of 'Escape Lawful Custody'.

### Exceptions

There are only three exceptions to placing a child/young person into a PACE Bed:

- 1) Children and young people arrested for breach of bail (Bail Act 1976 section 7) or on a warrant not backed for bail (Magistrates' Court Act 1980 section 13) cannot be transferred to a PACE Bed and must be kept in police cells.

- 2) The Police determine that it is 'impracticable' to transfer the child/young person to a PACE Bed – **'Impracticability' concerns the transport and travel requirements.** Neither a child/young person's behaviour nor the nature of the offence with which he/she is charged provide grounds not to release to a PACE Bed on the grounds of impracticability.
- 3) In the case of a juvenile of at least 12 years old, no secure accommodation is available and other accommodation would not be adequate to **protect the public from serious harm** from that juvenile. PACE section 38(6A) defines serious harm as **'death or serious personal injury, whether physical or psychological'** in relation to children or young persons charged with murder or charged under Criminal Justice Act 2003 Schedule 15 Part 1 (violent offending) or Part 2 (sexual offending). A judgement made on the likelihood of the child or young person absconding should not form the basis of requests for secure accommodation. When the police threshold test has not been met, it is the decision of the local authority to determine the appropriate placement of children and young people - the only determination a custody officer has to make in respect of secure accommodation is if it is required to protect the public from serious harm – **a high threshold.**

For more information on non-eligibility for PACE transfers, the arranging of transfers, and relevant age limits and requirements, see:

Section 38 (6) of PACE and Home Office Circular No 78/1992

Criminal Justice Act 1991: Detention etc Of Juveniles.

It should be noted that when referring to Home Office Circular 78/92 above, Parts 1 & 2 of Schedule 15 to the Criminal Justice Act 2003 now list the violent and sexual offences for the purposes of s.38(6A) PACE, see <http://www.legislation.gov.uk/ukpga/2003/44/schedule/15>

## Responsibility for young people in custody normally resident outside of Luton

It is not unusual for young people normally resident outside of Luton and Bedfordshire to appear in custody. In these cases it can sometimes be unclear which Youth Offending Service (and therefore which Local Authority) has responsibility for the young person. However in these cases, there is a general rule applied which determines responsibility based on where the offence was committed. Therefore if the Police are making a request for a PACE bed for a child or young person with an address outside of Luton, the offence location will need to be specified to ensure Luton has responsibility for dealing with the case.

## Process

Police:

- Where the Custody Officer determines that a child or young person should not be granted bail but held in custody for the next available Court, he/she should request transfer of the child/young person to a local authority PACE Bed by contacting and liaising with:

Normal Office Hours: Multi Agency Safeguarding Hub (MASH) on 01582 547653

Out of Office Hours: Central Bedfordshire Council Emergency Duty Team (EDT) on: 0300 300 8123

Advice on the law may also be sought from Luton Youth Offending Service during office hours on 01582 547900 but this service does not provide PACE Bed accommodation.

- A PER (person escort record) form should accompany all children and young persons transferred out of police custody, this must remain with the child/young person at all times. A copy of this should also be held on the Social Care casefile.
- The Police must make arrangements for the transfer of a child/young person to Local Authority accommodation in every case, whether this is taking the young person to the PACE bed or arranging collection by the carer at the custody suite. The Police may not refuse for the transfer of a young person simply because they disagree with the local authority as to the suitability of the resource. Furthermore, “impracticable” should be taken as meaning only those cases which, because of time, distance or local conditions, arranging a transfer is not in the child’s interests.
- Where the Custody Officer determines one of the above Exemptions applies this must be recorded on the **Certificate of Detention** PACE Section 38(7) which must then be produced to the Court before which the child/young person is first brought.
- Ensure a **Form 280** has been completed and sent along **with a copy of the Certificate of Detention** to Luton Youth Offending Service by email at [yos@luton.gcsx.gov.uk](mailto:yos@luton.gcsx.gov.uk)

#### Local Authority:

- The Local Authority should determine and locate suitable accommodation for the child/young person and arrange for the child/young person to be collected and transferred to that accommodation as soon as practicable. Decisions for the child / young person to be placed at home need to be ratified by Service Manager. If the Local Authority is unable to determine and locate suitable accommodation for the child/young person a written response to the Police should be provided citing the reasons accommodation cannot be provided.
- The Local Authority should ensure the child/young person is placed in supervised accommodation and not given permission to go out unaccompanied. The Local Authority should ensure the PACE carers are aware of the legal issues surrounding young people in PACE beds e.g. are not to be left unaccompanied and any absconding must be reported to the police immediately.
- The Local Authority should ensure Luton Youth Offending Service is informed of the placement details and who will be accompanying the child/young person to Court the following day through calling 01582 5479000 in office hours and asking for an Operations Manager or 07958464874 outside office hours.
- The Local Authority should transport the child/young person to the relevant Court the following morning. On arrival at Court the PACE carer should facilitate a hand over of the young person to the social worker attending Court, who will remain with them until such time as the Court proceedings have completed.
- The Social worker and child/young person should wait in the Court reception until the case is called on in Court. This will negate the need for the child/young person to be held in the Court

cells prior to appearing in Court. Should the young child/young person be presenting at Court on a Saturday, the main Court entrance is closed as the Court is not open to the public. The social worker must enter the Court through the side door by pressing the buzzer and showing their ID to security, explaining they are responsible for a young person in a PACE bed attending Court. This will again negate the need for the child/young person to be held in the Court cells prior to appearing in Court.

- If the child/young person absconds from the placement, the PACE carer must take the following steps as the young person will have effectively committed an offence of 'Escaping from Lawful Custody'
  1. PACE carer to ensure that the police are informed immediately. This should be done by the PACE carer calling 999 and reporting that the child/ young person has absconded from a Local Authority PACE bed.
  2. In the event of the young person absconding, the PACE carer is effectively reporting a further offence to the Police. As such, it will be necessary to complete a Section 11 witness statement.
  3. The PACE carer must also inform the Court and Luton Youth Offending Service of the situation. The Court should be advised in office hours on 01582 524264. The YOS can be advised in office hours on 01582 5477900 or out of office hours on 07958464874.
- The local authority must also inform the Court and Luton Youth Offending Service of the situation. The Court should be advised in office hours on 01582 524264. The YOS can be advised in office hours on 01582 5477900 or out of office hours on 07958464874

## **Referrals to the P.A.C.E bed scheme:**

1. Police call the MASH / EDT to request a PACE bed; it is not expected that the Police will activate a referral for a PACE bed after a unreasonable time, giving consideration for the time it would take for the child to be picked up and taken back to the foster home, and the likely need for them to be in court the following morning.
2. A risk assessment is completed by the MASH/EDT Social Worker taking into account the information they have available about the young person and their circumstances.
3. Contact to be made by Placement Officer/EDT social worker with duty PACE carer and notified of placement request. If it is not possible or practical for the Police to escort the young person to the placement, the Duty PACE carer will attend the police station to collect the young person.
4. Upon arrival, the PACE carer will be given a 'Prisoner Escort Record' (PER) by the custody officer, which will give the child's details, health needs and a risk assessment. The Custody Officer will also give the PACE carer contact details for the child's family.
5. The foster carer will provide overnight accommodation and help the child prepare for court the following day. When appropriate the foster carer will also liaise with the child's birth family to update them of the child's welfare.
6. The PACE Carer will transfer the child to court the following working day and will hand the young person to the pre agreed Social Worker. The PACE carer's responsibilities would then cease.

7. The PACE carers are not 'remand carers' and therefore should the child be remanded into local authority care by the Court a new referral for accommodation should be made via the MASH or attending Social Worker.

**Luton Youth Offending Service:**

YOS staff should ensure, in appropriate circumstances, Custody Officers and local authority staff consider placing a child/young person in a PACE Bed in line with legislation. This would normally be the role of the Triage Worker who should also ensure they receive a copy of the Form 280 and a copy of the Certificate of Detention.

The Court Officer & Bail Supervision Officer for the relevant Court & any Case Manager should be updated and provided with the Certificate of Detention/Form 280.

The YOS Bail officer will then liaise in Court with the Local Authority representative in court the next day, to ensure they are kept abreast of proceedings.

## APPENDIX 1:

### **Guide for Foster Carers providing accommodation under PACE**

#### Role of the Foster Carer:

- If the transfer by the Police to the PACE bed is impractical, pick the child/young person up from the Police station, provide the child with overnight accommodation and take the child to Court (or back to police custody) the following working day. The child does not become 'accommodated' under the children Act. Legally they remain in police custody (under Section 21 of children's Act 1989).
- The foster carer would not be expected to pick the child up before the end of the Social Care working day. The foster carer would not be expected to pick the child up after midnight.
- The foster carer would not be expected to act as appropriate adult, or remain with the child the following day. Their role would stop once they have transported the child to Court.
- The foster carer would not be expected to restrain the child in any way and would be subject to all the usual fostering regulations and expectations.
- Should the child abscond the foster carer would report the child missing immediately by calling 999.
- To be available for supervision with allocated supervising social worker.
- To attend relevant PACE bed scheme meetings when required.

#### Basic requirements for the fostering household:

- A spare bedroom
- Capacity to drive to pick up a child from Police custody or a Social Care Office (if required) and to take the child the following morning to the necessary Court.
- Experience and understanding of children with challenging / offending behaviours.
- If there is already a child / young in placement, a risk assessment will be completed to ascertain suitability of another child / young person being placed there under PACE.

#### Financial Arrangements:

- PACE foster carers will be paid a fee of £237 per week for each week that they are on duty.
- If a PACE bed is required then the carer will be paid an additional allowance of £113 per week pro rata for each night that the bed is used

#### Training, Supervision & Support:

- PACE foster carers will have access to the training programme available to all foster carers. Specific training relevant to the role of a PACE carer will be provided jointly through the Fostering Service and LYOS. It is expected that PACE foster carers attend a minimum of three training courses per year.
- An allocated supervising social worker will provide training, support and advice to the foster carer through supervision at a minimum level of once every four weeks
- A PACE bed support meeting will be facilitated by the Fostering Team for all PACE foster carers once per quarter.

**Luton**

