

**Greater Manchester Local Authorities and Greater Manchester Police**

**Joint Protocol for considering requests for the provision of accommodation  
under PACE (Police and Criminal Evidence Act 1984)**

**Implementation Version September 2018**

**1. Introduction**

- 1.1 This guidance applies to young people between the ages of 10 and up to (and including) 17 year olds for whom the Police seek accommodation from Children's Services subsequent to their arrest and detention at a Police station, but prior to formal remand from the Courts.
- 1.2 The primary aim of this protocol is to safeguard young people through avoiding, as far as is practicable, their detention overnight in Police custody. All staff should also be aware of LA arrangements for Appropriate Adults via \*Child Action North West (CANW) and that CANW will liaise with the LA to both obtain and provide information relating to a young person. In addition the GM Integrated Health Liaison and Diversion Partnership (IHLDP) is contracted through the Mayor's Office (PCC) to offer liaison and diversion assessment to all detained young people which may further justify communication being shared between the LA and the health care provider in the pursuit of safeguarding and the best interests of the young person.
- \* In some authorities the Youth Offending Service (YOT/S) have retained the AA function during weekday working hours. The local primary Custody Suite and relevant partners for that area will be aware of this.
- 1.3 The young people who are processed through Police custody include amongst their number some of the most vulnerable in our communities: those least able to represent their own best interests, control their behaviour and communicate their needs. One of the key principles underpinning this protocol is that every effort will be made, at all times, to prevent the need to use its provisions by establishing effective systems between Greater Manchester Police and the 10 Local Authorities of Greater Manchester.
- 1.4 Children and young people should not be kept in Police custody following charge (for an offence) and if they cannot go straight to court they must normally be transferred to local authority accommodation. In these circumstances it is for the Local Authority to determine what sort of accommodation is suitable. The only exception is where the young person is assessed as likely to cause serious physical or psychological injury to a member of the public before they appear at court, in which case a request should be made for the provision of secure accommodation.

## **2. Context**

- 2.1 When the Police determine they have sufficient evidence to charge a child or young person with an offence, they have a number of options (post-charge) and any final decision should normally be taken after consultation with the relevant Local Authority.
- 2.2 The Police have the power to detain anyone under arrest for up to 24 hours (longer in certain circumstances) while an offence is investigated. By the end of this period they must release or charge the detained person. During this period of detention the Police can release the suspect while investigations continue.
- 2.3 Where the offence involves someone 17 or under, if the Police wish to refuse bail after charge they must transfer the young person to Local Authority accommodation prior to appearance in court unless it is \*impracticable to transfer them, or in the case of a juvenile aged 12 or over, that no secure accommodation is available and other local authority accommodation which is available would not be adequate to protect the public from serious harm from that juvenile. This is a requirement of Section 38(6) PACE.

\* 'impractical to transfer' does not include behaviour nor nature of the offence – however revisions to PACE Code C in 2018 now includes the fact that transfer need not occur –

- if exceptional circumstances render movement of the young person impossible or
- if the young person is due at court in such a short space of time that transfer would deprive them of rest or cause them to miss a court appearance.

The issue of impracticality should be supported by the duty Inspector and detail of the travel and court times should be recorded in the certificate of detention. Impracticality must be judged on a case by case basis rather than a time “ cut-off ”.

- 2.4 This guidance is designed to ensure that professionals are clear about the process for considering such requests. It is primarily targeted at custody officers, duty social workers and Youth Offending Service officers for both during the day and out of hours.

## **3. The provision of accommodation**

- 3.1 Police may ask for accommodation in two circumstances:

- i) In situations where they would be prepared to grant bail, but there is nowhere suitable for the young person to return to (for example where a parent refuses to allow a young person to return home or the young person assaulted a parent, and cannot return to the parent's care)
- ii) In situations where because of the risks of the case, the Custody Sergeant does not feel that they should grant bail, and wishes the Local Authority to provide or access more appropriate accommodation.

When responding to all accommodation requests from the Police the Local Authority should firstly establish why the Police are unwilling to allow the young person to return home and whether the Police have explored whether other family members and friends could provide accommodation.

- 3.2 The first situation described above, is essentially a request for accommodation under S.20 Children Act 1989 which should be assessed by the Local Authority in the same way as any other S.20 request. The Local Authority's first preference should be to return the child to the care of their family when and if this is considered a safe enough option. In considering this option it should be noted that the Local Authority may have available access to additional support processes or skills which will facilitate the safe return of a young person to the care of a parent who has previously informed the Police of their refusal to allow the young person to return home.
- 3.3 It should be noted that under S.20 of the Children Act 1989, a young person cannot be accommodated if those with parental responsibility object and refuse to give such consent. If this happens, the local authority should contact the custody sergeant and jointly re-assess the situation.
- 3.4 When a decision is made to accommodate any young person each Local Authority should follow their own individual Looked after Children Procedures
- 3.5 The second situation set out above is under S38(6) of PACE which states that the "*Custody Officer shall...make arrangements for the arrested Juvenile to be placed into the care of a local authority and detained by the authority; and it shall be lawful to detain him in pursuance of the arrangements*". Under the terms of PACE regulations during the period the young person is placed in transfer accommodation, they are regarded as under arrest, it restricts the young person's liberty and they may be detained in that accommodation.
- 3.6 It is for the Local Authority to determine what type of accommodation is sought for the young person. In some circumstances, following assessment, a placement within the family will be considered appropriate; for others supported residential or foster care or 16+ accommodation will provide the necessary care and supervision. In deciding the most appropriate placement for the young person, the Local Authority will need to be mindful that the young person must appear in court at the required date, which will usually be the day after discharge from Police custody.
- 3.7 The Police must make arrangements to transfer the young person to local authority accommodation in every case, unless it is impracticable or there is a risk to the public of serious harm from the young person AND no secure accommodation is available. The Police may not refuse to transfer a young person simply because they disagree with the local authority as to the suitability of the resource.

#### 4. **Requests for Transfer to a Secure Children's Home**

- 4.1 The Police may request a transfer to secure accommodation. However the local authority does not have to provide secure accommodation and if it cannot (or does not accept the need) then the young person must still be transferred to other accommodation unless serious harm to the public would occur.
- 4.2 Requests for secure accommodation are in effect a request to place a child in a Secure Children's Home under the terms of the Welfare Criteria' of S.25 of the Children Act. Therefore in responding to such requests the Local Authority must be assured that the secure welfare criteria as described below are met
- The child has a history of absconding and is likely to abscond from any other description of accommodation; and
  - If the child absconds, (s)he is likely to suffer Significant Harm; or
  - If the child is kept in any other description of accommodation (s)he is likely to injure her/himself or others.
  - This is modified if the child is charged or is convicted of a violent or sexual offence or an offence punishable in the case of person aged 21 or over by imprisonment of 14 years or more or has a recent history of absconding while remanded in Local Authority accommodation and is charged or convicted of an imprisonable offence or found to have committed whilst on remand
  - The modified criteria in these cases is that children may not be placed or kept in secure accommodation unless it appears that any accommodation other than that provided for the purpose of restricting liberty is inappropriate because:
    - (a) The child is likely to abscond from such accommodation; or
    - (b) The child is likely to injure himself or other people if he is kept in any such accommodation.
  - An application to the Secretary of State needs to be made for a child under the age of 13
  - Where placements are to exceed 72 hours the Local Authority must seek the authority of the court
- 4.3 In responding to such requests the Local Authority should follow their own individual secure welfare placement procedure. However a child should not be placed in secure accommodation unless the criteria are met. It is also the case that all alternative placements options, such as a placement in a children's home or with a foster carer, should always be considered and where such placements might reasonably be expected to reduce any presenting risks such placements should be used.
- 4.4 Where a child is kept in a secure children's home and the local authority intends to make an application to the court to keep the child there, the local

authority looking after the child must, if practicable, inform the following as soon as possible:

- The parents.
- Any other person with parental responsibility.
- The child's independent visitor if one has been appointed
- Any other person they consider should be informed of that intention.

## **5. Transfers under PACE**

- 5.1 Case law has clarified that the Police may approach any Local Authority to request PACE accommodation or transfer and it becomes the responsibility of the chosen Local Authority to meet this request. This protocol sets out arrangements agreed between the 10 Greater Manchester Local Authorities (LA) and Greater Manchester Police (GMP) designed to both maximise responsiveness (e.g. with respect to appropriate adult services) and to ensure that the LA in which the young person is normally resident is engaged in decision making. It also clarifies expectations in respect of young people from outside the Greater Manchester area.
- 5.2 When considering the possibility of requesting accommodation under PACE, the Custody Sergeant will contact the Local Authority in which the young person resides. Where a young person is of no fixed abode the local authority where the custody suite is situated will be contacted and asked to provide accommodation. It is the duty of the LA to ensure that contact details are kept up to date and provided to GMP. Out of hours contact arrangements (including a local definition of the hours covered by this service) will also be provided to GMP.
- 5.3 Each LA with a custody suite in their area will keep a current set of contact arrangements – both daytime and out-of-hours - for each of the other 9 LAs. It is the duty of each LA to ensure that these are updated should they change. LAs will also provide details of any PACE resources they will make available to accommodate young people from their LA and indicate whether these might also be available for use by other LAs.
- 5.4 When contacted by the Custody Sergeant, the LA will make any immediate arrangements necessary to respond to the young person's needs.
- 5.5 In normal circumstances, once appropriate accommodation has been identified by the LA, GMP will transfer the young person from the custody suite to the accommodation. The LA will ensure that it has made appropriate arrangements to transfer the young person to court the following day.
- 5.6 When the Police request a placement for a young person whose ordinary residence is outside Greater Manchester it may not be in interests of the young person to be transported to a distant area (possibly out of hours) and the

logistical arrangements associated with arranging the transport of the young person may be prohibitive and impractical. In these circumstances the LA in which the young person is being held will liaise with their “home” authority and agree whether a transfer to that area or seeking a local (GM) solution is most appropriate. In such circumstances the Local Authority which processes the referral will seek to recoup all associated administrative management and placement costs.

## **6. Problem Solving and System Learning**

- 6.1 GMP will identify a senior officer with responsibility for overseeing the implementation of this protocol. Each LA will identify a senior officer to act as a contact point for the GMP lead. The designated senior officers will act as a reference point should operational staff be unable to reach agreement on the management of a case – in effect they will provide the first level of escalation. In addition, the GMP lead will provide each LA with details of requests made that did not lead to the provision of accommodation and the LA will use this communication channel to raise issues relating to young people for whom a transfer was not sought.
- 6.2 GMP will provide regular data reports on the numbers of children detained by the Police; those denied bail; and those for whom accommodation is requested from the LA and whether it was provided.
- 6.3 Greater Manchester Safeguarding Partnership has requested information about the operation of PACE arrangements and it is suggested that the Partnership should receive a regular monitoring report derived from the operational data GMP has agreed to collate.
- 6.4 The operation of this protocol will be reviewed by GMP and the 10 LAs

## **7. Escalation Procedure**

- 7.1 If the LA does not offer a placement to GMP this is to be escalated to Children’s Social Care and the Youth Offending Service, through the Head of the Youth Offending Team/Service and the Director of Children’s Services (or nominated equivalent) at the earliest opportunity. The LA will provide a written response that details the reason for this decision-making and outcome.

\* See Appendix 3

## **Appendix 1**

### **Information that will be provided to the carer by the Police and Local Authority**

(where a juvenile has been provided with Local Authority accommodation under PACE or a SECURE placement)

The decision to offer accommodation under PACE will be made by the Local Authority. In making that decision, the Local Authority will be aware of the circumstance of detention and the reasons for bail being refused by the Police.

The Local Authority will share any information with the carer as they see fit and necessary to ensure the well-being of the child and to ensure that the carer is privy to any risks that they know to be present.

The Police will complete and provide to the carer a “**Prisoner Escort Record Form**” (PER) – this is a nationally agreed form, used in the transfer of detainees to different agencies whilst in Custody; it documents risks that need to be understood by those agencies.

The PER will include:

- The offence charged
- Any evidence of suicide and self-harm, propensity to violence, risk of escape drug and alcohol usage
- Any racial or homophobic motivation
- Any communication or language difficulties
- Details of medical and mental health needs
- Details of property and medication that is being transported with the detainee

The PER form includes a “History of Record and Events” form that serves as a log to record any events chronologically. As the transferred juvenile remains on “remand” but in the care of the Local Authority until they are taken to court, it would be advisable that carers record any relevant information on this record, during the juveniles stay which would include:

- Time of arrival
- That the detainee has gone to bed
- Medication / food and drink provided
- Any change in behaviour

The Police will retain a copy of the PER form along with the custody record. It would be advisable that the LA / carer also retains their copy of the PER for such time as is necessary and in compliance with Data Protection legislation.

The Police will also provide to the carer:

- The detainees property, (taken from them during their detention)
- Medication prescribed during their detention
- Any relevant medical forms detailing what is prescribed

## **Appendix 2**

### **Issues that must be discussed with the Police in order that the Local Authority can make the right accommodation decision for a young person charged with an offence**

Police-Custody will make contact with the local authority, in order to request either a SECURE bed or safe accommodation under PACE for a young person.

By law, the Police follow a different criteria (to the Local Authority) when requesting that a young person be provided with SECURE accommodation. The Police should request SECURE accommodation where they perceive there is a risk of serious harm to the public.

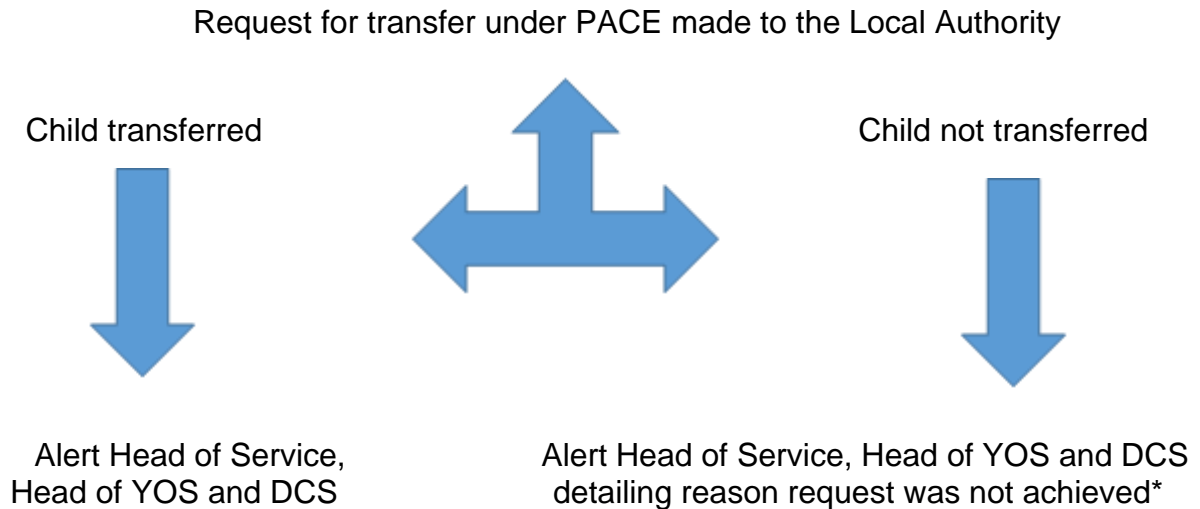
The Local Authority should cover the following points with custody in order to determine the right accommodation outcome for the young person.

- 1) Why has the young person been refused bail?
- 2) Could the young person be bailed if a suitable bail address could be found?
- 3) Why are the Police requesting a SECURE bed?
- 4) What evidence do the Police have, that the public will be at risk of serious harm?
- 5) Is the young person presenting with any vulnerabilities i.e. self-harm, panic attacks?



### Appendix 3

#### Escalation process following request for accommodation under PACE



\*When alerting Senior Management that a transfer under PACE has not been achieved the reasons for this need to be detailed under one of the three following categories:

1. No suitable bed available
2. Request deemed inappropriate as offence and/or risk of absconding doesn't meet criteria.
3. Request for transfer deemed not appropriate based on circumstantial evidence i.e. distance of placement, timing of request.

Local authorities should explore the reasons for transfer not occurring, to reduce risk of future failure.