

Concordat on Children in Custody (2017)

Summary

1. This report has been prepared with the aim of providing the Corporate Parenting Board with an overview of the '*Concordat on Children in Custody*' which was published by the Home Office in October 2017.
2. The Concordat on Children in Custody aims to clarify the legal and statutory duties of the Police and Local Authorities (LA) and is intended to prevent the unnecessary detention of children in Police cells following charge.

Background

3. The Home Office recognized the high numbers of children being kept in Police custody following charge across the country despite the Police and Local Authorities' legal requirements to transfer children. Section 38 (6) of the Police and Criminal Evidence Act 1984 requires the transfer of children who have been charged and denied bail to more appropriate Local Authority accommodation, with a related duty in the Children Act 1989 for Local Authorities to accept these transfers. Section 11 of the Children Act 2004 requires both police and Local Authorities to have regard to the welfare and protection of children. In 1991 the UK ratified the UN Convention on the Rights of the Child, agreeing that custody be used "only as a measure of last resort and for the shortest appropriate period of time".
4. The concordat provides guidance for Police forces and local authorities in England on their responsibilities towards children in Police custody and was the Home Office's response to failings being identified by Her Majesty's Inspectorate of the Constabulary (*The welfare of vulnerable people in custody*, March 2015), the All Party Parliamentary Group for

Children (*"It's all about trust": Building good relationships between children and the police*, October 2014), the Criminal Justice Joint Inspection and the Inspection of Youth Offending (*Who's looking out for the children?: A joint inspection of Appropriate Adult provision and children in detention after charge*, December 2011) and the Howard League for Penal Reform (*The overnight detention of children in police cells*, 2011). In many cases, it was found the law was not being followed and children were not receiving the support to which the law entitled them.

5. The Police and Criminal Evidence Act 1984, states that the detention of a child in custody is permissible only in exceptional circumstances (such as extreme weather conditions) or when a child is deemed to pose a 'risk of serious harm' to the public between being charged and appearing at the next available Court and no LA secure accommodation is available. The concordat stresses the importance of the Police and LA's working together to ensure the welfare of children is protected and statutory obligations to some of the most vulnerable children in society are met.

6. The concordat aims to:

- Clarify the legal requirements of Police and Local Authorities.
- Support the Police and Local Authorities across England in complying with their statutory responsibilities with regard to children in custody; and
- Bring about a decrease in the number of children held overnight in police custody.

7. In total, 24 Police forces and 87 Local Authorities are signatories to the concordat that sets out the following principles and practice:

- Whenever possible, charged children will be released on bail
- Children denied bail will be transferred whenever practicable
- Secure accommodation will be requested only when necessary
- Local Authorities will always accept requests for non-secure accommodation
- The power to detain will be transferred to the Local Authority.

- Where a local authority fails to provide accommodation it will reimburse the police.
- Police forces will collect data on transfers.

Consultation

8. This paper provides an update on current practice.

Options

9. This paper provides an update on current practice.

Analysis

10. This paper provides an update on current practice.

Council Plan

11. As an authority, York has been working hard to improve the Police and Criminal Evidence (PACE) process for several years. This work has continued supported by national Government following the publication of the Concordat on Children in Custody, 2017.
12. To help improve the process in our area, a York and North Yorkshire PACE, Youth Working Group was created. The group, which meets quarterly, includes representatives from York Youth Offending Team, North Yorkshire Youth Justice Service, North Yorkshire Police, the Emergency Duty Team and Children's Social Care.
13. During the quarterly meetings the group will review all PACE transfer requests made during that quarter to make sure everything was done to prevent any child spending the night in Police custody. Unsuccessful PACE Transfers will also be discussed and steps taken to ensure reasons for failed transfers are not repeated. Group representatives will provide feedback to their respective teams.
14. Although PACE Transfers are rare in York (only 4 requests in the last 12 month recording period) York has clear pathways and processes in place to deal with any PACE transfer requests that are made. Since 2016 York has had access to PACE beds at Howe Hill Hostel (1 bed), the Peaseholme Resettlement Centre (1 bed) and a local Foster Care

Placement. The availability of these beds has been key in assisting York as an authority to meet its PACE responsibilities and reduce the need to detain children in Police custody unnecessarily.

15. No child should be detained in Police custody post charge. However, it is extremely positive that latest figures show that the overnight detention of children in Police custody has reduced in recent years.

Implications

Financial

16. In the event of a 'failed' PACE Transfer which results in a child being detained in Police custody overnight, there is a financial implication for the Local Authority to consider. Where the Police have requested a child be transferred to Local Authority Accommodation and this request is not met by the Local Authority, the Police are able to apply for their costs to be reimbursed by the Local Authority.
17. To date no costs have been applied for to York LA; this is in part due to the joint work of the York and North Yorkshire PACE, Youth Working Group, where the cases are discussed on an individual basis and explanations can be given for the reasons for any failed PACE transfers.

Human Resources (HR)

18. There are no human resource implications to consider.

Equalities

19. There are no issues relating to equalities to consider.

Legal

20. There is a legal requirement for the Local Authority to provide Local Authority Accommodation for children who have been refused bail.

Crime and Disorder

21. Related legislation includes Police and Criminal Evidence Act 1984; and the Children's Act 1989.

Information Technology (IT)

22. No IT implications to consider.

Property

23. Currently there are no issues with regards to property; PACE Beds available at Howe Hill Hostel, Peaseholme Resettlement Centre and at a local Foster Care Placement.

Risk Management

24. No risks identified but PACE Transfer decisions will need to be made on a case by case basis.

Recommendations

25. That the report be noted.

Reason: To keep the Board updated.

Contact Details

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Report
Approved



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Specialist Implications Officer(s) *List information for all*
None

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers: None

Abbreviations

PACE – Police and Criminal Evidence

Annexes

- a. Flowchart for PACE process during working hours.
- b. Flowchart for PACE process out of office hours.