**Practice Standard and Procedure (PSP)**

|  |  |
| --- | --- |
| **Title** | **Children in Custody** |
| **Date of issue** | 04th November 2019 |
| **Author (Name and role)** | Mahfuzul Khan – Service Manager – MASH & EDT |
| **Document Owner (Role not name)** | Head of Safeguarding and Intervention |
| **Date for Review** | November 2020 |

**Overview**

The objective of this practice standard is to ensure that appropriate and timely response is provided by Newham Children’s Service to all children taken into police custody.

Children taken into police custody are in a particularly vulnerable position; not only by virtue of their age, but also because of the circumstances which brought them into contact with the police. They may be under the influence of drugs or alcohol, recovering from a recent trauma or coming to terms with events that may have a lasting impact on their lives. For a child – especially one deprived of familial support – a prolonged stay in police custody can be harmful.

The law recognises that police cells are not a suitable place for children. Section 38(6) of the Police and Criminal Evidence Act (PACE) 1984 requires the transfer of children who have been charged and denied bail to a suitable Local Authority accommodation, with a related duty under Section 21(2)(b) of the Children Act 1989 for Local Authorities to accept these transfers.

However, if a child is arrested on a warrant not backed for bail, or for a breach of condition of a court remand, these children will normally remain in police custody until presented at court at the first opportunity.

**Procedure Details**

1. **Request for Secure Accommodation**

The criteria under PACE required for the police to justify the request of secure accommodation is that the child must be 12 years or older and the custody officer must believe that the child poses a risk of serious harm to the public between being charged and appearing at court. This is a very high threshold for a child to meet.

Once a custody officer is confident that secure accommodation is required, the duty inspector should approve this decision. The custody officer will then contact the Local Authority and request secure accommodation for the child.

Once the request for a secure accommodation has been made by police, Newham Children’s Services social worker will:

1. Have a conversation with the custody officer about the threshold for secure and the type of accommodation needed based on the child’s needs and potential risks. The social worker will be required to use their professional judgement and consider the threshold criteria under Section 25 (1) of the Children Act 1989 before jointly agreeing to the type and appropriateness of a secure accommodation.
2. If it is considered that secure provision would be appropriate, to liaise with the head of service and director of children’s services about the request and obtain approval to search for a placement.
3. Once the approval has been obtained and the placement found, the social worker would liaise with the custody officer about the best option / agency to accompany the child from police custody to the local authority placement.
4. **Request for Non-Secure Accommodation**

A request for non-secure Local Authority accommodation is appropriate for the majority of children charged with an offence and who cannot be released on bail. Non-secure accommodation is required for children under 12 years of age and those who do not pose a risk of serious harm to the public.

Following the request for a non-secure accommodation by police, Newham Children’s Services social worker will:

1. In the first instance will explore with the custody officer about the child going home or residing with friends / extended family members.
2. If it has been agreed that the above option is not viable, a suitable foster placement / semi-independent accommodation will be sought based on the child’s needs and the identified risk.
3. Approval from head of service would be required before searching for a placement.
4. Once the approval has been obtained and the placement found, the social worker would agree with the custody officer about the best option / agency to accompany the child from police custody to the local authority placement. It may be appropriate for the child to be collected by family members, where the decision has been made for the child to be accommodated by their parents / other family members.

Newham Children Service is committed to accommodating children in custody to suitable placements as long as the transfer of placement is not ‘impracticable’. According to national guidelines, impracticable means that exceptional circumstances provides movement of the child impossible or that the child is due at court such a limited space of time that transfer would deprive them of rest or allows them to miss a court appearance.

Where a joint decision with the police has been made for the child to remain in custody overnight, a social worker will visit the child at the police station or at a minimum, will have telephone conversation to assess the child’s health / welfare and offer support. The decision would be recorded on Azeus case notes. EDT workers will also record their decision on ‘EDT Record of Actions’. The social worker will also obtain a written confirmation from the police of their decision to hold the young person in custody.

In some circumstances, the social worker and their line manager may not agree with the custody officer’s request for a placement. Any disagreement should be immediately escalated to the relevant head of service.

**Areas of Responsibility**

All safeguarding, intervention and looked after children’s team.

**References**

This practice standard should be read in conjunction with the following guidelines:

Home Office Concordat on Children in Custody: Preventing the detention of children in police stations following charge. Home Office: 30th October 2018.

Home Office Concordat on Children in Custody supplemented by the London Protocol for Provision of Local Authority Accommodation for Children held in Police Custody. London Safeguarding Children Board: May 2019.