



**PAN-DORSET ALTERNATIVE TO POLICE CUSTODY PROCEDURE – SUMMARY**

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## **1. Introduction**

This is a shortened version of the 'Alternative to Police Custody Procedure'. It is intended as a practical guide for practitioners. This document can also be read with the 'Protocol for Reducing the Use of Police Custody in Dorset'.

## **2. Legal responsibilities for children detained in police custody after charge**

The Police and Criminal Evidence Act 1984 (PACE) requires that when a child or young person is detained after charge, the custody officer must seek to transfer them to local authority accommodation pending appearance at court. There are two exemptions to that requirement whereby the custody officer must certify either:

- (a) That it is impracticable to transfer them; or
- (b) 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.

Section 21(2) (b) of the Children Act 1989 makes clear that 'every local authority must receive and provide accommodation for children whom they are requested to receive under section 38(6) of the Police and Criminal Evidence Act 1984.'

## **3. Definition of 'Impracticable'**

'Impracticable' should be taken to mean that exceptional circumstances, such as extreme weather, render movement of the child impossible. 'Impracticable' does **not** relate to the availability of local authority accommodation or transport; the nature of the accommodation offered by the local authority; the child's behaviour or the nature of the offence.

A decision not to transfer due to impracticality should be agreed by a duty inspector.

The custody officer must carefully record the decision on the PACE 38 (7) certificate, as required by section 38 (7) of the Police and Criminal Evidence Act 1984. The certificate must be presented to the court at which the child appears. Courts have a duty under PACE to receive and review this certificate and are now able to flag any failures to the responsible police force.

## **4. Criteria and Process for Secure Accommodation**

If a custody officer decides that transfer is practicable, their next step is to determine whether secure or non-secure accommodation is required.



The Police and Criminal Evidence Act is very clear about the criteria required for the police to justify secure accommodation:

- the child must be 12 years or older and
- the custody officer must believe that this child poses a risk of serious harm to the public between being charged and appearing at court. To say that a child poses a risk of serious harm means that they are likely to cause death or serious injury (whether physical or psychological) to members of the public before appearing in court.

Once a custody officer is confident that secure accommodation is required, this decision should be cleared by the duty inspector.

The custody officer should then contact the local authority for the child to request secure accommodation. During the daytime, the police can liaise with Youth Justice Service for advice about which local authority to contact.

The custody officer will provide the local authority with the child's personal information, including details of any particular vulnerabilities, the nature of the offence and an explanation as to why the child poses a risk of death or serious injury to the public.

On receiving a request for secure accommodation, the local authority will contact Secure Children's Homes which accept children under PACE transfers. Hampshire County Council provide the national Secure Welfare Coordination Unit ([securewelfare@hants.gov.uk](mailto:securewelfare@hants.gov.uk)). Requests for secure PACE beds should be made direct to the secure establishment, not via the Secure Welfare Coordination Unit.

More details about the decision-making process for secure or non-secure accommodation, the respective responsibilities of the police and the local authority and the resolution of disagreements can be found in the local Protocol for Reducing the Use of Police Custody in Dorset.

## **5. Process for Non-Secure Accommodation**

A police request for non-secure accommodation is appropriate for the vast majority of cases and is required for children under 12 years of age and for children who do not pose a risk of serious harm to other people.

It is up to the local authority to determine the most appropriate form of non-secure accommodation for the child.

## **6. The Alternative to Custody Fostering Scheme**



The Bournemouth, Christchurch and Poole Council Fostering Service operate the Alternative to Police Custody Fostering Scheme on behalf of both local authorities. The scheme uses a pool of up to four carers across Dorset and, Bournemouth, Christchurch, and Poole to provide one placement 365 days per year as an alternative to police custody. The scheme is only available for children who have been remanded, ie detained in police custody after being charged with an offence.

More details of the partnership arrangements for the scheme, including financial arrangements, can be found in section 4 of the full Alternative to Custody Procedure document.

The scheme will provide one available foster care placement 365 days a year available from 5pm. The placement will be with an approved, supported, and trained foster carer. The carers will provide an individual bedroom for the young person, a welcome pack of toiletries including toothbrush, toothpaste, shower gel, and change of socks and underwear, use of a bath or shower, warm evening meal, breakfast, and a warm welcome.

## **7. Decisions on whether to use the Alternative to Custody Fostering Scheme**

The Custody Sergeant will be responsible for identifying a possible need for a placement within the scheme. At this point an initial consultation with the Out of Hours Social work service is required. If this is during office hours between 8.30 – 5pm the consultation will take place with the child's home Local Authority children's social care service. During office hours the Youth Justice Service should also be consulted, to obtain relevant risk information about the young person to inform the placement decision.

If the young person is from another area, the Youth Justice Service/Out of Hours Service will contact the relevant Youth Offending Team/Other Local Authority for information.

The consultation will share available information from the Police, Youth Justice Service and Social Care Records and establish a risk assessment around the suitability of the placement. The risk assessment will be recorded on appropriate electronic Social Care Records and a copy sent to the Custody Sergeant.

The decision on whether to transfer the young person to Local Authority accommodation should be taken in the context of there being very limited legal exemptions to this course of action. Factors to be considered when making the decision whether it is safe and appropriate to access the Alternative to Custody Fostering Scheme are highlighted below:

- Nature of the crime the young person has been charged with.
- Information from Police records – PNC / Niche / Custody Record.
- Information from Social Care records.



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- Information from YJS records, if available
- Assessment of the young person's current presentation
- Shared responsibility to follow the legal requirement to transfer children from police custody to local authority accommodation.

Factors which would create concerns or require risk management plans:

- The young person's presentation in custody indicates an immediate risk to others or a risk to self that could not be safely managed in the foster placement.
- The young person has previously been identified as posing a risk to staff, or of using weapons.
- The young person has committed violent, aggressive behaviour within the custody suite.

If the risk assessment identifies the risk to be at a too high level for the young person to be safely accommodated in a fostering setting, the Children's Social Care/Out of Hours Services will look to identify an alternative placement option.

If the Custody Sergeant and the Children's Social Care/Out of Hours Service agree that the child is suitable for transfer to the Alternative to Custody foster placement they will inform their respective senior duty managers.

Any decision not to transfer a remanded child into the Alternative to Custody placement, or to another local authority placement, and therefore not to comply with section 38 (6) of PACE, will be taken by the Police and Children's Social Care duty senior managers. The rationale for all decisions will be recorded in the police custody log and in the children's social care record.

## **8. Use of the Alternative to Custody Fostering Scheme**

The Bournemouth, Christchurch and Poole Council Fostering Service will send information in advance to the two local authority Out of Hours Services with details of the carer on call for that night and the contact information for the Family Resource Centre worker who will provide transport to court in the morning.

If the joint decision of the Police Custody Sergeant and the Children's Social Care/Out of Hours Social Work Service identifies it is safe and appropriate to place the young person in an alternative to custody foster placement, the relevant local authority's Children's Social Care/Out of Hours Social Work Service will be responsible for contacting the foster carers to make them aware of the proposed placement. It is essential to ensure the safe care of the young person that the carers are provided with the necessary information to care for the young person. This should include name, date of birth, home address, risk assessments, safe care plan, and medical needs. It



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is the responsibility of the Children's Social Care/Out of Hours Service to ensure carers are provide with the information listed above.

The Children's Social Care/Out of Hours Social Work Service will also inform Bournemouth, Christchurch, and Poole Fostering Service to trigger payment indicating the young person's responsible Local Authority.

The young person will be dropped off by the Police at the carers. This will usually not be any later than 1am, preferably before midnight to allow the young person sufficient time for rest before the court hearing the following day.

The Police Officer transporting the young person will provide the carer with details of how to contact the police should the young person go missing or be significantly disruptive to the fostering household. The Police will open an incident log identifying the name of the young person, carer, and address, and provide this reference number to the carer, for ease of retrieval by police call takers should the carer contact police. Custody staff will ensure this log is created.

The Police Officer will also provide the carer with a copy of the Person Escort Record (PER) which will include key information about the young person, details of any health needs and a summary of any identified risks. This should include the custody Risk Assessment, which will serve as an easy-to-read document for the carer, summarising all known risks. Anything within the Risk Assessment should already have been discussed with the Out of Hours Social Work Services.

The Carer will sign to confirm receipt of the PER. This signature will act as an audit trail to record and be referred to regarding the movement of all Personal Data records beyond Police Systems. The Carer will ensure all PER documents are secured at the home address and locked away preventing unauthorised access to sensitive personal data.

Placements made on Saturdays will result in the placement extending to two nights as there are no Courts sitting on Sundays. Placements in these circumstances need a revised approach to the risk assessment and support provided to carers to reflect the longer stay.

Whilst in the care of the carers the young person will not be given cigarettes and therefore will not be able to smoke.

Whilst in the care of the carers the young person will be allowed to make two telephone calls per day to agreed significant others. The significant others will be agreed by the involved Social Work Service and the Police Custody Sergeant. This information will be passed to carers. The telephone calls should last no longer than 5 minutes. The carer will dial the number and confirm the identity of the person answering the phone. The details of the two significant others who the Young People can contact via telephone should be recorded on the PER form.



The young person's property will be retained by police and will be returned after the Court appearance. This will be delivered to Court by the Police and handed to SERCO. An exception will be when it is agreed by Police and Social Services that the property is not of a contentious or valuable nature, and that it is safe for the foster carer to retain this, and this will be handed to the Family Resource Centre worker transporting the young person to Court. The Family Resource Centre worker will in turn pass this to SERCO on arrival at court.

On occasions when the young person is in the care of carers over a weekend period, they are allowed to leave the address if under direct supervision of the carers.

### **9. Transport to court and detention at court**

The Bournemouth, Christchurch and Poole Family Resource Centre team will provide a worker on standby each day to transport the child to court. If the child has a social worker, it may be appropriate for the social worker to provide the transport to court. The relevant local authority's Out of Hours service will contact the Family Resource Centre worker to confirm the transport arrangements to court in the morning. The standby worker from the BCP family resources team comes on call at 7am. The relevant social care/OOH team should confirm the transport arrangements with the standby worker and should notify the foster carer as soon as possible.

The young person will be collected for Court the next day by the agreed worker (either the standby Family Resource Centre worker or another professional) at approximately 0830.

The carer will hand the original copy of the PER to the Family Resource Centre worker who will sign to confirm collection of all Personal Data paperwork.

On arrival at court, the Family Resource Centre worker will transfer the responsibility of the supervision of the young person to SERCO who will facilitate access to Youth Justice Service Staff and Legal Representation. The Family Resource Centre worker will transfer the PER to SERCO, ensuring signature for PER paperwork is recorded.

When it has been agreed by Police and Social Services that the child's property is not of a contentious or valuable nature, and that it is safe for the foster carer to retain this, the property will be handed to the Family Resource Centre worker transporting the young person to Court. The Family Resource Centre worker will in turn pass this to SERCO on arrival at court. The property should not be returned to the child until they have been discharged from custody, ie after the court appearance.

### **10. Child's legal status – criminal justice**

The child remains in custody throughout the period between being charged and appearing in court. This means that the child is technically in custody throughout the period when they are not in the police station.





If the child absconds during this period, eg while at the foster placement or while being transported to the court cells, they are committing the offence of Escape from Lawful Custody. It is important that this is explained to the child, in accessible language, by the custody sergeant, by the foster carer and by the professional transporting the child to court. The custody sergeant's explanation should take place on camera and be documented on the custody record.

If the child absconds, the police must be informed immediately (if the child absconds from the court precincts, before appearing in court, the police must still be informed immediately).

### **11. Child's legal status – children's social care**

Placements within the Scheme will fall under Section 21 of the Children Act 1989. Section 21 says that every Local Authority shall make provision for the reception and accommodation of children who are removed or kept away from home under Part V. This legal status and care episode will end when they leave their placement to attend Court.

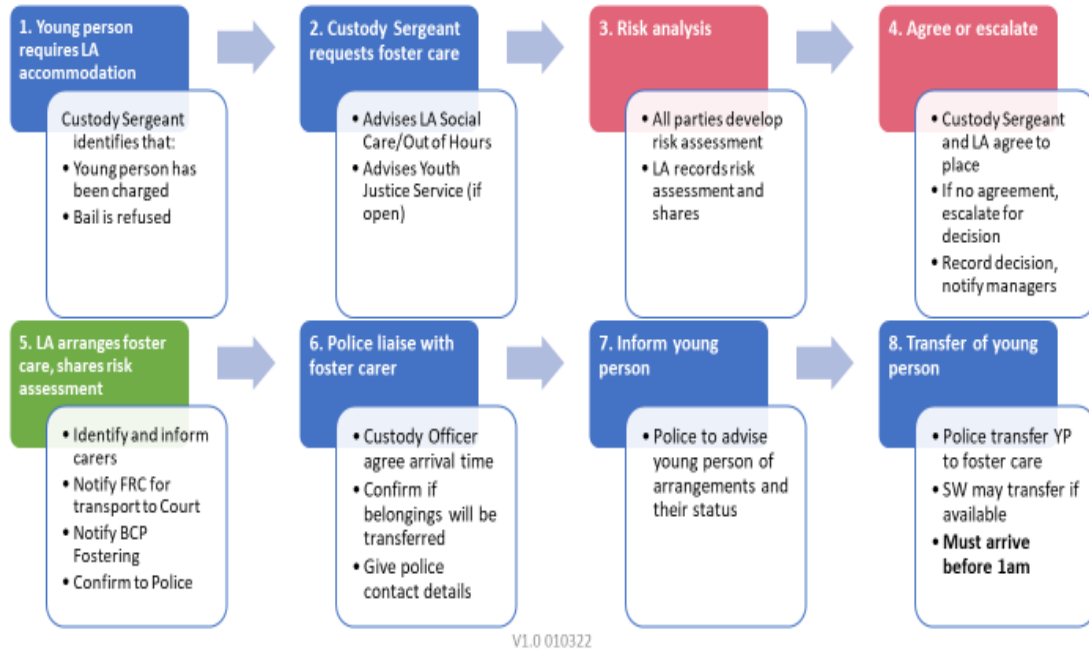
Section 21 does not require any agreement or consent from anyone holding parental responsibility. Indeed, such agreement or consent would conflict with the status of the young person being dealt with by the criminal justice system after charge.

Case recording on the local authority case management system should reflect that the accommodation is provided under Section 21 of the Children Act 1989.

The wording of Section 21 of the Children Act 1989 and of Section 38 (6) of the Police and Criminal Evidence Act 1984 is appended at the end of this document.



## The placement process



## Key to the flowchart

• Colour codes for text boxes:

- Police action
- Multi-agency action
- Local authority action

Abbreviations used:

- LA – Local Authority
- FRC – Family Resource Centre
- BPC – Bournemouth, Christchurch and Poole
- YP – Young Person
- SW – Social Worker

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