**ALTERNATIVE TO POLICE CUSTODY**

**FOSTERING / SUPPORTED LODGINGS SCHEME**

1. **BACKGROUND**

1.1 The National Police Chiefs Council (NPCC) strategy for Police Custody indicates using Police Custody should be a last resort for young people under the age of 18. It is widely recognised that Police Custody Suites are not suitable places for children or young people to be held overnight. There is a risk of children and young people being exposed to aggressive and abusive behaviour, people encountering mental health episodes or people being under the influence of alcohol and substances.

It is recognised that children or young people are vulnerable in a custody setting and should be treated differently to adults in Police custody.

1.2 The law recognises that police cells are not a suitable place for children. 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. 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”.

1.3 Dorset Police, Bournemouth Borough Council, Dorset County Council and the Borough of Poole Council have developed an Alternative to Police Custody Fostering / Supported Lodgings Scheme. This document sets out the processes which will promote the smooth running of the scheme.

1.4 This document sets out the arrangements in relation to the transfer of children and young people who are refused bail and detained in police custody in to local authority accommodation. It also sets out the responsibilities of the respective agencies in ensuring that the best interests of children and young people are prioritised.

1. **POLICE PRACTICE**

2.1 The prevention of children being held in police custody overnight begins with the practice of Police Officers. Options for preventing entry into custody are set out in the Dorset Protocol for Reducing the Use of Police Custody for Children

* Where appropriate Police officers can avoid arresting children and young people by arranging for them to attend police stations on a voluntary basis to be interviewed at pre arranged times.
* Children should only be held in a police cell overnight in the most exceptional circumstances.
1. **LEGAL BACKGROUND**

3.1 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:

1. That it is impracticable to transfer them; or
2. 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

3.2 When a Local Authority receives a request from the police to accommodate a child or young person, they have an absolute duty, under the Children Act 1989, to do so. In particular, section 21(2) (b) makes clear that ‘every local authority must receive and provide accommodation for children whom they are requested to received under section 38(6) of the Police and Criminal evidence Act 1984.’

3.3 The law is clear that there are very limited circumstances to justify the detention of children at police stations.

**4. ALTERNATIVE TO POLICE CUSTODY FOSTERING / SUPPORTED LODGINGS SCHEME**

4.1 The Alternative to Police Custody Fostering/Supported Lodgings Scheme will provide four carers across Dorset, Poole and Bournemouth to provide one placement 365 days per year as an alternative to police custody.

4.2 The Scheme will provide four carers to allow for days off, to cover illness and to cover holidays.

4.3 The Carers will receive a retainer payment for the days they will be on the rota to provide placements. This will be paid by the Local Authority the carers are registered with, at the rate of £35 per evening. The annual cost of the retainer will be recharged via a three way split between Bournemouth Borough Council, Borough of Poole Council and Dorset County Council. The financial responsibility for the retainer will be £4258 per annum perLocal Authority.

4.4 The Carers will also receive a pro rata allowance at the rate of £25 per night for any placements which are made with them. The pro rata allowance will be paid to the carers by the Local Authority they are registered with. This will be then recharged to the Local Authority responsible for the young person placed. In addition a disruption payment of £100 Mon to Friday and £150 Saturday and Sunday will be made for placements occurring during anti social hours.

4.5 The Local Authority the carers are registered with, are responsible for the support, supervision and ongoing personal / professional development of the carers. Carers must show their ID badge to the Police Officer who transfer the young person from Police Custody to the Alternative to Custody Placement. The Carers will have received training re the Data Protection Act 1998 with specific guidance regarding recording and secure storage of all Personal Data Records received with the young person.

4.6 Any complaints/allegations regarding the carers will be dealt with by the Local Authority the carers are registered with.

4.7 The scheme will require a review within its first year of operation and twice annually thereafter. The review will include Carers, Carers SSWs, Out of Hours Service, and Representatives from each Local Authority, YOS and the Police.

4.8 The three Local Authorities are responsible for the ongoing development and sufficiency for the scheme.

4.9 The Borough of Poole’s Children and Young People’s Social Care Finance will make one attempt to recharge Non Pan Dorset Local Authorities for young people they are responsible for who have accessed the scheme. Due to a relatively small pro-rata allowance it is not financially viable to pursue payment from them on more than one occasion. Any unpaid allowances will be recorded and costs will be met by an equal share between the Poole, Bournemouth and Dorset Councils.

**5. SECTION 20 LEGAL STATUS**

5.1 Placements within the Scheme will fall under Section 20 of the Children Act 1989. Therefore, if the young person is not in care at the time of arrest, at the point of being transferred from Police Custody to the placement they will be become Accommodated under Section 20 of the Children’s Act 1989. This legal status and care episode will end when they leave their placement to attend Court. The issues around managing the consideration of Section 20 are the responsibility of the Out of Hours Service. Custody sergeants may be asked to gather or seek the views of the Young Person.

5.2 As the placements are classified as Section 20 accommodation consent must be considered. For young people over 16 years consent to become accommodated under Section 20 and transferred from the Police Custody to the alternative care placement must be gained from the young person. For young people over 16 years it is good practice to ask the young person to consider whether the parent(s), or carer(s) either give consent, or are informed of the custody episode and transfer to the care placement.

 For young people under the age of 16 years consent to become accommodated under Section 20 and to be transfer from custody to alternative care placement must be gained from the person(s) who have parental responsibility for the young person. The young person’s views shall be gained and shared with and should be considered by person giving consent.

5.3 Gaining consent and obtaining the views of the young person will be facilitated by the Out of Hours Service. The Out of Hours Service may organise for the young person consent and views to be obtained by the Police staff at the Custody Suite. The Out of Hours Service are responsible for gaining parental consent where necessary. The Out of Hours Service will record details regarding gaining consent on the appropriate Electronic Social Care record. Please note that if the above activity takes place during office hours the Poole Fostering Service and appropriate Local Authorities MASH will undertake the tasks assigned the Out of Hours Service.

5.4 The Child in Care Episode, on the Electronic Social Care Record, will be started by the Out of Hours Service if the activity is outside of Office Hours. During office hours this will be undertaken by the appropriate Local Authorities MASH who will be notified of the placement by Poole’s Fostering Service.

5.5 The Child in Care Episode will be ended by the appropriate Local Authorities MASH following notification from the Borough of Poole Fostering Service that the placement has ended.

5.6 In situations where consent cannot be obtained the usual Children and Young People’s Social Care Processes and Procedures regarding overriding consent will be followed. If a situation arises in which consent is declined to transfer from Custody to the care placement a consultation between the Out of Hours Service (Borough of Poole’s Fostering Service if during office hours). The Custody Sergeant and the appropriate Principal Manager, will take place regarding whether the young person should remain in Police Custody. A record of this consultation should be recorded on the Electronic Social Care Records.

**6. WHAT THE SCHEME WILL PROVIDE**

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

6.2 The first three welcome packs for each carer will be provided by the Local Authorities. Thereafter there is an expectation that the carers will provide these with costs covered by the retainer payment.

6.3 The Carers will offer a caring and vigilant approach. They will report any immediate concerns to the Out of Hours Social Work Services.

6.4 The Out of Hours Social Work Service will notify the carers of a placement highlighting any specific needs or risks together with advice on manging these. The scheme encourages early notification to carers about placements to allow for preparation. The Custody Sergeant will contact either the Poole Fostering Service (office hours) or the Out of Hours Social Work Service (non office hours) as soon as they think it is likely a young person will be charged and remanded. This will provide sufficient notice to research the needs of the young person and to allow preparation time for the Carer. There maybe occasions where early notification from the police identifies a possible need for an alternative custody placement. As investigations progress the situation may change resulting in the young person not being charged. In these situations if a care placement is required the alternative to custody scheme should not be used. The placement need should be assessed by the responsible Local Authority.

6.5 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 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 C&YP data.

6.6 The young person will be collected for Court the next day by Sessional Staff provided by Bournemouth Borough Council at approximately 8.30am. The carer will receive the original copy of the PER to the Sessional Staff. Sessional Staff will sign to confirm collection of all Personal Data paperwork. On arrival at court the Sessional Staff will transfer the responsibility of the supervision of the young person to GEOAMEY who will facilitate access to Youth Offending Service Staff and Legal Representation. The Sessional Staff will transfer the PER to GEOAMEY, ensuring signature for PER paperwork is recorded

6.7 Sessional staff used for transporting Young People in custody are paid a retainer of £50 per week which equates to £2600pa by Bournemouth Borough Council. This one off cost of the sessional staff will be split 3 ways between the local authorities at £867 each per annum. Bournemouth Borough Council will invoice the LA’s in January each year for this cost. In addition, all LA’s will be invoiced for actual costs for transporting young people in custody at the sessional staff paid rate per hour for actual time taken to transport Young People to court with mileage costs added in line with Bournemouth Borough Council mileage allowance. Bournemouth Borough Council will invoice each LA separately for these charges on a quarterly basis.

6.8 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.

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

6.10 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 could be recorded on the PER form.

6.11 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 GEO AMEY. 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 Sessional Worker transporting the young person to Court. The Sessional Worker, will in turn pass this GEO AMY on arrival at court.

6.12 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.

6.13 The rota for carers will on occasions include Supported Lodgings Providers; there may be situations where a young person under the age of 16 requires an Alternative to Custody Placement. The Care Planning Regulations 2015 Chapter 3 Pages 74-80 describes the consideration to be made before a decision can be made to place a young person in an unregulated placement. If a situation arises which requires a decision to place the young person under 16 in a Supported Lodgings Placement, this can should only be made by the Senior Manager on Call for the Local Authority who the Foster Carers are registered with and the Senior Manager on Call Responsible for the young person.

**7. HOW THE SCHEME CAN BE ACCESSED**

7.1 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 Poole Fostering Service. During office hours the Youth Offending 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 Offending Service will contact the relevant Youth Offending Team for information. The consultation will share available information from the Police, Youth Offending 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.

7.2 Factors to be considered when making the decision whether it is safe and appropriate to access the Alternative to Custody Fostering / Supported Lodgings 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.
* Information from YOS records, if available
* Assessment of the young person’s current presentation.

Factors which would create concerns or require risk management plans

* The young person is under the influence of substances and, or alcohol.
* The young person is presenting mental health/emotional health needs.
* The young person has committed a violent crime without mitigating circumstances.
* 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.

7.3 It is recommended that any Risk Assessment or Matching Assessment is undertaken using the Signs of Safety Grids (see Appendix One). This should then be uploaded on to the appropriate Electronic Social Care Record and shared with the Police.

7.4 If the joint decision of the Police Custody Sergeant and Out of Hours Social Work Service or Borough of Poole Fostering Service between 8.30 – 5.30 pm Monday to Friday identifies it is safe and appropriate to place the young person in an alternative to custody foster placement. The Out of Hours Social Work Service or Borough of Poole Fostering Service between 8.30 – 5.30 pm Monday to Friday will be responsible for contacting the foster carers/supported lodging providers 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, DOB, home address, risk assessments, safe care plan, medical needs and summary of any bail conditions. It is the responsibility of the Out of Hours Service or for placements during office hours Poole Fostering Service to ensure carers are provide with information listed above.

7.5 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 or supported lodgings setting, the Out of Hours Services will look to identify an alternative placement option. If this is not available, and the threshold is not met for secure accommodation, it should be recorded that the decision will need to be made that the young person will remain in custody at the Police Station. This decision should only be made following a consultation with the Principal Manager on call.

7.6 The Out of Hours Social Work Service, or the Borough of Poole Fostering Service (for placements made during office hours) will also inform the Bournemouth Sessional Work Service of the name and address of the foster carer, or Supported Lodgings Provider to enable the collection and transportation the next to court. In addition Key Information about the young person will be shared including risk assessments to ensure the safe transportation of the young person to court. The sharing of information should also include the location of the court the young person is required to attend.

7.7 The Out of Hours social work team will also inform Borough of Poole Fostering Service to trigger payment indicating the young person’s responsible Local Authority. For placements made during Office Hours the Fostering Social Worker involved in making the placement will complete the required notifications to trigger the appropriate payment to the carer.

**8. TRANSPORT FROM THE POLICE STATION TO AN ALTERNATIVE TO CUSTODY PLACEMENT.**

8.1 It is expected that there will be direct contact between custody officer and carers to confirm E.T.A.

8.2 For Alternative to Custody placements being made during Office Hours, the young person will be transported to the placement by, a relevant Social Worker or by a Police Officer, depending upon which is best placed at the time. Outside of office hours, transport will be provided by the Police.

8.3 There is a presumption against the use of force. The transfer of the young person should be a compliant process.

8.4 Before transferring the young person to an Alternative to Custody Placement, the police will inform the young person of their status highlighting they remain in police custody and the consequences of going missing, causing a disturbance or committing further offences whilst in police custody at the placement. The Concordat recommends using the following wording on camera: ‘***You have been charged with (offence) and you have to appear at court on (date). You have been refused bail, which means that you have to stay in custody until your court date. If you were an adult, you would stay in the police cells, until then, but because you are under 18 years of age, the local authority is going to look after you until your court appearance. The local authority will decide where you will stay until then. It is very important that you understand that you are still in custody: this means that you mist stay where you are told to go by the local authority and can only go out with their permission. If you do leave without permission, the local authority will tell the police and you will get into more trouble, just as if you had run away from the police station. Do you understand?’***

 The Police officer and the local authority staff should be satisfied that the child has understood these points, offering further explanation if necessary.

8.5 It is impracticable to transfer young people for only a few hours before court (in R v CC West Midlands, the periods of detention were less than 5 hours and it was not considered reasonable for a transfer to take place). All decisions should be made on their individual circumstances however, as a general guide, it is anticipated that young people should arrive at their accommodation by midnight where they are due to appear at court the following day, to allow for a reasonable rest period. Irrespective of the time of day, a discussion should always take place between the custody officer and social care and joint decision made which is in the young person’s best interests.

8.6 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 or supported lodgings placement. 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.

**9. TRANSFER OF A YOUNG PERSON’S PROPERTY**

9.1 The PER (transfer form) and property handovers should be updated and signed by everyone who takes responsibility for the young person, before duty of care is transferred to another e.g. the custody officer must ensure the PER is completed prior to the transfer to the carer, Sessional Staff, GEO AMY must be completed prior to handover to the Court.

**10. HEALTH & WELFARE**

10.1 Duty of care towards the young person is the responsibility of the agency or carer whom the young person is with at the time. Any health issues arising after the young person has been transferred out of police custody will be referred to mainstream healthcare provision i.e. GP, NHS Walk In Provisions or Accident and Emergency rather than the Custody Healthcare Provision.

10.2 All risk assessments and medical records completed in custody should be discussed and copies shared with the carers. Relevant information held by the YOS and Out of Hours Social Work Service should also be shared in order to promote the welfare and protect the safety of children. This is in line with the Crime and Disorder Act 1998 and Children’s Act 2004.

10.3 Self-harm risks do not, per se, present an exemption from transfer to an Alternative to Custody Placement. Custody is a stressful environment for young people and it should not be presumed that a police cell is the safest place for a young person to stay. Alternative to Custody carers are suitably trained, supported and competent to deal with reasonable risks. The carer will assume duty of care for the young person upon their arrival. In situations where there is an identified risk a Risk Assessment and Safe Care Plan should be in place prior to transfer and these documents are shared with the carers. In situations where carers are managing risk the Safe Care plan will identify where immediate carer support can be accessed. The Safe Care Plan will also describe presentations, situations and antecedence which may determine risks whilst in placement have escalated and need reassessing. The plan will also describe how the carers will manage these risks. Self harm risks and incidents will be recorded on the PER.

**11. HOW THE SCHEME WILL WORK**

11.1 The foster placement/supported lodgings placement is responsible for informing the police if the young person goes missing from placement or becomes disruptive.

11.2 The Fostering / Supported Lodgings Placement will be responsible for waking the young person and providing them with breakfast ahead of the Bournemouth sessional staff collecting the young person.

11.3 The Borough of Poole fostering service upon notification of placement will make the pro rata placement allowance to the carer and make arrangements for this to be claimed back from the responsible Local Authority.

11.4 The Borough of Poole Commissioning and Improvement Service will be responsible for the annual invoice for the three-way split for the cost of this service.

**12. ESCAPES FROM LAWFUL CUSTODY**

12.1 In the case of a young person who goes missing prior to their court appearance, this will normally be deemed as an indictable offence of ‘Escape from Lawful Custody’. They should be arrested and returned to police custody for a PACE investigation to commence. Carers should notify the police immediately upon any disappearance, use the 999 system where the disappearance has just happened, or they are likely to still be in the area, or where there is current information on their whereabouts. Carers should use 101 in other cases. Carers should subsequently notify the Out of Hours, or relevant social work team during office hours.

12.2 Police resources will be deployed through normal procedures to commence a search and investigation, including relevant witness statements and crime recording. There is no requirement to notify custody at this stage as the custody record will have been closed.

12.3 Transfers into local authority accommodation prior to court could be a confusing process for many young people. Custody officers should fully explain the process to young people prior to their transfer, ensure they understand they are still in lawful custody, and ensure they understand the consequences of disappearing. This explanation should take place on camera and be documented on the custody record. Escaping from lawful custody is a serious offence which may attract more severe penalties at Court than the original offence it is important that all involved agencies and carers understand this and take responsibility for educating young people.

**13. GOVERNANCE ARRANGEMENTS**

13.1 The Police will record information in relation to all young people detained in custody post-charge, including those kept in police detention and those transferred to local authority accommodation. The information will be shared on a weekly basis with YOS, Poole CYPSC, Bournemouth CYPSC and Dorset CYPSC.

13.2 YOS will collate data on court appearances/attendance rates and Children’s Services will monitor and record any instances of absconding this will be shared.

13.3 The scheme will require a review within its first year of operation and twice annually thereafter. The review will include Carers, Carers SSWs, Out of Hours Service, and Representatives from each Local Authority, YOS and the Police.

13.4 Feedback or specific cases which require discussion at these meetings should be referred to the appropriate representative from each agency. Ad hoc meetings should be called to discuss more urgent arising matters.

13.5 Any live-time issues which cannot be resolved between agencies should be referred to the duty senior managers.

**Contact details:**

**Out of Hours Service:**

Tel: 01202 657279

**Borough of Poole Fostering Services:**

Tel: 01202 714711

**Bournemouth Borough Council Sessional Contact:**

Mob: 07717 420 165

**Escalation contacts:**

**Borough of Poole, Principal Manager Fostering Services**

**Office Hours Escalating:**

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Borough of Poole, Principal Manager, On-Call Children & Young People’s Social Care

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‘Appendix One’ – Signs of Safety Risk Assessment Grids

**Reporting Officer:**

Tim Nelson, Commissioning Manager

**Date:**

17 January 2018 / ktm

**Document updates:**

27.03.18: Version 2 – update section 6.4 and contact numbers