

## WORKING PRACTICE PROTOCOL WS YOUTH JUSTICE SERVICE AND WS CHILDREN'S SERVICES

### **1. OVERVIEW AND PURPOSE**

This document reflects the formal agreement of working practice between Children's Social Work and the Youth Justice Service.

This document details the roles and responsibilities of the Youth Justice Service and Children's Social Care staff in working with children who come to the attention of the criminal justice system and highlights the assessment of risk in respect of offending behaviour, the Court processes and the outcomes for children – particularly with regard to Remand.

Its purpose is to promote effective and responsible practice between West Sussex Youth Justice Service and West Sussex Children's Social Care.

### **2. LEGISLATION AND RELEVANT GUIDANCE**

- a) Children Act 1989 Guidance and Regulations: Volume 2: Care Planning, Placement and Case Review (Supplement)
- b) Looked After Children and Youth Justice - Application of the Care Planning, Placement and Case Review (England) Regulations 2010 to Looked After Children in Contact with Youth Justice Services (April 2014).
- c) The Children Act 1989 guidance and regulations, Volume 2: care planning, placement and case review, June 2015
- d) The Crime and Disorder Act 1998

### **3. PRINCIPLES**

The Crime and Disorder Act 1998 established the principal aim of the Youth Justice System is to prevent offending by children and young people.

The West Sussex Youth Justice Service is part of Specialist Adolescent Services within Children's Services in West Sussex County Council and is committed to ensuring that the needs of children in conflict with the law are viewed in a holistic way. The aim of this agreement is that Youth Justice and Children's Services respond in meeting these needs positively and co-operatively.

The Youth Justice Service and Children's Social Care will work closely together to meet the needs of children and their families. All relevant information for children and families will be shared and both parties will notify each other and involve each other in planning and review meetings collaboratively. If information is not shared it will be necessary to demonstrate that this is in the child's best interest.

When the Youth Justice Service and Children's Social Care are involved in providing a service to a young person, both agencies must be clear about the specific intervention being provided by each service and the intended outcome of this work. If any service is considering closure of a child's case, it would have to be demonstrated that the needs of the young person had been met and the service involvement is no longer appropriate. A child should not be closed to either service on the basis that either agency has become involved.

All staff are committed to ensuring that every child, young person or adult associated with its activities will be treated with dignity and respect. Access to opportunity and support will be facilitated in a manner that demonstrates a commitment to the valuing of difference and diversity. The staff of all the above agencies are committed to ensuring that no person will be treated less favourably because of their individual circumstances or protected characteristics.

#### **4. CHILD PROTECTION AND SAFEGUARDING**

If at any time or as a result of the AssetPlus, it is felt that there are Child Protection concerns, or where safeguarding attempts have been unsuccessful, a written referral will be made to the relevant social work team, or MASH if the case is unallocated, to be dealt with in accordance with [Pan Sussex Child Protection and Safeguarding Procedures](#). Any written referral should include the detail of the concern, background to child and family, other agency contacts and any associated risk and vulnerability factors. In urgent situations consideration may need to be given to contacting emergency services such as Police or Ambulance. In out of hours situations, the referral should be made to the Emergency Duty Team. All referrals will be followed up in writing the same day. The Youth Justice Officer will receive an outcome of the decision made as a result of the referral.

#### **5. CHILDREN LOOKED AFTER AND THE CHILD PROTECTION SYSTEM**

The South East 7 and the Pan Sussex Protocols state that every effort should be made to avoid the unnecessary criminalisation of children who are looked after. This is in recognition that criminalisation can be a barrier to successful transition to adulthood and future life prospects, as well as recognising that the life histories of many children who are looked after makes them particularly vulnerable to involvement in the criminal justice system.

It is every professional's responsibility when working with children who are looked after to strive to understand behaviour and aim to reduce the prosecution of children in care, wherever possible, by encouraging the use of Restorative Justice/Practice approaches. Restorative Justice/Practice is a process whereby the victim has an opportunity to be heard and to state the impact of the behaviour and the offender has the opportunity to take responsibility for their actions.

Approaches can range from internal mediation within children's homes between young people and staff without involving the Police, to an Out of Court Disposal which does involve the Police. Wherever possible, the action to be taken will be determined following discussions by all concerned, including the child, about the most appropriate response.

#### **6. ASSESSING AND RESPONDING TO RISK OF SERIOUS HARM TO OTHERS**

Where a quality assured Youth Justice Service assessment has determined that a child presents a medium, high or very high risk of harm to children, a referral will be made to the relevant social work team or Multi-Agency Safeguarding Hub within twenty-four hours or sooner. All referrals should include the offence analysis and the AssetPlus Judgement in relation to Risk of Serious Harm and Likelihood of Reoffending. Risk Definitions are as follows;

- a) **Low Risk:** No evidence present to indicate likelihood of serious harmful behaviour in the future. No specific risk management work needed.

- b) **Medium Risk:** Some risk identified, but the offender is unlikely to cause serious harm unless circumstances change. Relevant issues can be addressed as part of the normal supervision process.
- c) **High Risk:** Risk of serious harm identified. The potential event could happen at any time and the impact would be serious. Action should be taken in the very near future and the case will need additional supervision and monitoring, e.g. local registration, oversight by middle/senior management
- d) **Very High Risk:** Imminent risk of harm identified. The young person will commit the behaviour in question as soon as they are able or as soon as the opportunity arises and the impact would be serious. Immediate action is required and is likely to involve intensive multi agency support and surveillance.

The social work manager will review the referral and decide if a Child and Family Assessment is required and if so whether this is to be completed under Section 17 or whether a Strategy Discussion is needed to determine whether investigation under Section 47 is required following acknowledgement of referral and inclusion in the assessment process, the Youth Justice Service will be provided with the relevant outcome in accordance with Children's Social Care procedures.

The Youth Justice Service will ensure the young person is discussed at Complex Safeguarding and a multi-agency risk management plan will be developed. Children's Social Work are a co-opted member of the panel alongside Sussex Police, Education, Health, CAMHS, Contextual Safeguarding and Independent Review.

## 7. APPROPRIATE ADULT

Where a child (under 18) is detained by the Police, it is a requirement of PACE<sup>1</sup> that an Appropriate Adult<sup>2</sup> is present when the young person is interviewed at the Police Custody Suite. In the first instance, the Police will make every effort to contact the parent or guardian or carer to attend as the Appropriate Adult. Where a child is under 18 and a Child Looked After, the responsibility to provide an Appropriate Adult falls to the allocated Social Worker or team (including Emergency Duty Team).

Where a child is not a Child Looked After and the parent or guardian cannot attend, a trained Appropriate Adult volunteer will be provided by the Youth Justice Service. Children looked after who come into Police custody "out of hours" (e.g. after 5.00 p.m. but before 9.00 a.m.) maybe referred to this scheme, although the Local Authority should be responding in the first instance.

Where a carer regularly cannot attend, this should be raised by the Youth Justice Service to the child's social worker, IRO and the fostering/agency placement team.

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<sup>1</sup> Police and Criminal Evidence Act 1984

<sup>2</sup> The term 'Appropriate Adult' has a specific meaning in PACE; it refers to the adult who must be present to safeguard the welfare of a child detained at a police station. It should not be confused with the term 'Responsible Adult' which applies in other situations, e.g. accompanying a child at court.

## 8. OUT OF COURT DISPOSALS

Where a child accepts responsibility for an offence the Police have the option of taking no further action, administering a Community Resolution, or issuing an Alternative Outcome, Caution or Youth Conditional Caution for offences which are not so serious to warrant prosecution. All Youth Conditional Cautions or second Cautions can only be given following an assessment by the Youth Justice Service and jointly agreed decision by the Police and Youth Offending Service. (*At present this is done via phone communication, however a Pan Sussex Review is underway and this section will be updated*).

All children who admit an offence and for whom the Police are considering an Out of Court Disposal involving the Youth Justice Service, are referred into the service for assessment. The Youth Justice Service will initially triage a child and will only progress to a full assessment where it is indicated suitable to do so. Children's Social Care records will be reviewed as part of the triage process and contact will be made with the allocated Social Worker or Team where a child is known or open.

Where a full assessment is undertaken in respect of children with an allocated Social Worker, the Youth Justice Officer will liaise with the relevant Social Worker and together agree a proposed program of intervention prior to returning the case to the police to determine outcome. A copy of the assessment, together with the proposed rehabilitation program will be forwarded to the Social Worker.

## 9. YOUTH COURT ATTENDANCE

All children aged 16 or under, attending Court should do so with a Responsible Adult – it is not a requirement for this adult to be a person with Parental Responsibility for the child. The Youth Justice Service cannot provide a Responsible Adult. Where a child is looked after by the Local Authority, it is the responsibility of the allocated Social Worker or team to be present as the Responsible Adult or arrange for a Responsible Adult to be in attendance – this could be a child's carer. The Youth Justice Service will notify the allocated Social Worker or team of upcoming Court dates and the outcome of all Court matters.

## 10. BAIL

Where a child is arrested for a suspected offence, they can be released using a number of legal options; no further action, released under investigation, bailed or charged with the offence.

- a) No Further Action – The child is released, and no further action is taken
- b) Released Under Investigation – The child will be released while the Police investigate the suspected offence. There is no time limit on this process and the child may be released with no date fixed to return.
- c) Police Bail – The child will be released while the Police investigate the suspected offence and will be given a fixed date to return within 28 days. The child could be charged with the offence and released on Police bail with a date to attend Court. The Police may impose conditions on the child such as doorstep curfew, reporting, non-associations and exclusions. If a child breaches the conditions of bail they are arrestable.
- d) Court Bail – If a child is granted bail by a Court, they will be given a fixed date by when to return to Court. The Court may impose conditions on bail that could include, in addition to those listed above, a condition to 'Live as Directed by the Local Authority' – this does not

automatically make a child a Child Looked After and should not be confused with a 'Remand to Local Authority Care/YDA or YRO Local Authority Residence Requirement which does.

- e) In the case of 'Live as Directed by the Local Authority', the Local Authority will assess where the child should reside which could be with parent/carer, family member, connected person, foster carer, residential/ semi-independent accommodation. Child Looked After status is dependent upon assessment of need and resultant provision. If the child fails to live as directed this would constitute a breach of bail and the Social Worker will need to provide a formal statement outlining this, which will be submitted to the Police via the seconded Police Officer in the Youth Justice Service. If the child does not attend Court on the date specified, or breaches a condition imposed by Court, they will be arrested and detained for the next available Remand Court.
- f) Where a child commits an offence for which they are charged, eligible for release but where Police have assessed there is no suitable accommodation for them to be released to, they will request a transfer to Local Authority Care under the Pan Sussex Protocol for Transfer of Young People to Local Authority Accommodation from Police Custody. Is the Local Authorities assessment as to where the child is to reside<sup>3</sup>

## 11. REMANDS TO LOCAL AUTHORITY ACCOMMODATION (RLAA) IN BOTH ADULT AND YOUTH COURTS

A Youth Justice Court Duty Officer attends every Court where there is a risk a child will be remanded. Where it is believed a child is at risk of being remanded to Local Authority Accommodation, they will make the appropriate enquiries of the relevant social work team where the child is habitually resident.

Where there is a risk of a remand to Local Authority accommodation, the Youth Justice Court Officer will attend Court and undertake a bail assessment. However, the Court may still require a Social Worker or designated worker from the relevant Local Authority to be present within that Court session. The Youth Justice Court Officer will ensure the Court is made aware of the practical difficulties for staff from social work teams in meeting short deadlines for attendance at the Court and the Court will be asked to be clear about the expectations they have for the attending worker.

In the event a remand to Local Authority accommodation is likely and assessment indicates risk of harm and risk of reoffending can be managed in the community, the Court Officer (and Social Worker) will offer a Bail Support Programme in partnership with all agencies, outlining the conditions and interventions that can be provided as an alternative to an episode of care.

When a young person is remanded to Local Authority accommodation, they become a Looked After Child and are the responsibility of the Local Authority. If the child is not already open to the Local Authority and is habitually resident in West Sussex, the child will be allocated to the relevant Children Looked After team. The Youth Justice Court Officer will make a referral to the Multi-Agency Safeguarding Hub for all children remanded to Local Authority who were not previously known or open to Children's Services. This needs to be completed immediately after the Court hearing.

A remand to Local Authority accommodation means that the Local Authority needs to decide where the child will reside. The Local Authority could assess that this is with a parent, family member or

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<sup>3</sup> Under Section 21(2)(b) CA 1989 every Local Authority must provide accommodation for children who they are requested to receive under Section 38(6) of PACE Act 1984.

connected person or within Foster Care or Residential Care, unless the Court has stipulated they cannot reside at home or with a specific family member. (NB – The Court cannot stipulate where a child resides but can stipulate where they cannot be placed.)

The child may also have conditions placed upon them, these are called 'Remand Conditions' and could include restrictions such as curfews or exclusion zones. These could be standalone conditions or part of a Remand Support Programme. During a Remand, if there is any need for conditions to be altered the Youth Justice Service can assist in applying to the Court for this to be considered.

Where a Remand Support Programme has been made part of the remand conditions the Youth Justice Service will take responsibility for the management of this but will look to work collaboratively with the allocated social worker to ensure the programme and care plan are reflective of each other and do not duplicate interventions or provisions. The Youth Justice Service will take responsibility for the preparation of any Pre- Sentence Report.

## **12. REMAND TO YOUTH DETENTION ACCOMMODATION (RYDA)**

There is a strict criteria which must be met before a Remand to Youth Detention Accommodation can be made<sup>4</sup> - *Appendix 1 and 2*. It is imperative that the Local Authority in which the child is habitually resident is identified *prior* to remand.

A child who is remanded to Youth Detention Accommodation automatically becomes a Child Looked After at the point the remand is made and for the duration of the remand. The relevant Local Authority is financially responsible for the cost of a Remand to Youth Detention Accommodation.

The Youth Justice Service are responsible for finding a secure placement and arranging secure escort through the Youth Custody Service. The Youth Justice Service will inform the secure estate of any concerns regarding the safety and wellbeing of the child remanded in consultation with all relevant agencies. This will be based on the Youth Justice Service Safety & Wellbeing framework listed in *Appendix 3*. If a boy's safety & wellbeing ability is assessed as high or very high, the Youth Offending Service Court Officer will consider a placement in a Secure Training Centre or an approved Local Authority Secure Children's Home. Any girls remanded to Youth Detention Accommodation can only be accommodated in a Secure Training Centre or a Local Authority Secure Children's Home.

The Youth Justice Court Officer will be responsible for notifying managers and senior managers within the Multi-Agency Safeguarding Hub, Children's Social Care and the Youth Justice Service, including the Independent Reviewing Officer Service, of the Court's decision to remand a child to Youth Detention Accommodation. In these circumstances the Local Authority is not required to prepare a care plan or permanence plan, instead the authority must carry out an initial assessment of the child's needs and use this information to prepare a Detention Placement Plan. This plan should describe how the Youth Detention Accommodation will meet the child's needs<sup>5</sup> and records the roles and responsibilities of the other partner organisations the local authority and the Youth Justice Service specifically. The Detention Placement Plan should also take into account the

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<sup>4</sup> Legal Aid, Sentencing & Punishment of Offenders Act 2012

<sup>5</sup> Regulation 47C (2) - The Care Planning, Placement and Case Review (England) (Miscellaneous Amendments) Regulations 2013

circumstances that contributed to the child's alleged involvement in any offending and the support they should be offered when they return to the community to prevent (re)offending.

A Detention Placement Plan must also be drawn up with regard to children who are already looked after and who are remanded to Youth Detention Accommodation. This will be based on the assessment informing the child's current care or pathway plan. Where children are looked after as a result of a care order or if they are a 'relevant child' care/pathway planning will continue once the remand ceases, whether or not the child is sentenced to custody.

**Remand Planning:** An initial remand planning meeting must be coordinated by the Youth Justice Service and Secure Estate and take place within **five** working days of the date of the remand, agreeing the program of work that the child will complete in the Youth Detention Accommodation based upon the child's assessed needs.

A Detention Placement Plan should be agreed no more than **ten** working days after the initial remand. Every effort should be taken to combine remand and looked after reviews, however remand reviews are required monthly and the Youth Justice Officer must see the child a minimum of monthly and separately to the formal meetings, although these can take place on the same day.

The Youth Justice Service is responsible for liaising with the home education authority to ensure their statutory duties continue to be met or with the relevant education or training provider if they are above statutory school age.

Both Assessment and Detention Placement Planning must ensure consideration is given to the longer-term needs of the child including whether the child will need to be looked after following the end of the remand period. If the child remains remanded for 13 weeks or longer the child may be eligible for Leaving Care services.

### **13. PRE-SENTENCE REPORT (PSR) REQUESTS**

Where a Pre-Sentence Report is requested the Youth Justice Service will take responsibility for its preparation, ensuring there is active involvement of the child and the parent/carers in preparation of the report and development of the proposal to the Court.

Where the child is known to Children's Social Care, the Youth Justice Officer will involve the allocated Social Worker in the preparation of the report and the Social worker will ensure there is timely response to requests for information. Both the Youth Justice Officer and the Social Worker will ensure the sentence recommendations made to the Court reflect and compliment the current care/safety plan.

Where a child's living arrangements are considered to directly impact their offending, the Criminal Justice and Immigration Act 2008 made provision for a Local Authority Residence Requirement to be imposed for a period of up to 6 months as a requirement of a Youth Rehabilitation Order. Any consideration of a Local Authority Residence Requirement needs to be approved through the Specialist Adolescent Service Lead. If a child fails to adhere to this requirement, they would in effect be in breach of their Order and the matter would be returned to Court.

### **14. YOUNG PEOPLE SUBJECT TO COMMUNITY PENALTIES**

Where a child is known to both the Youth Justice Service and Children's Social Care, it is essential there is collaborative and joined up working particularly with regard to care and intervention planning.

Both agencies will contribute their professional opinion to the assessments, planning and transitions for the children they are working with.

Where a child is known to both the Youth Justice Service and Children's Social Care, every effort will be made by both Youth Justice Service and Social Work staff to attend relevant meetings within each agency and ensure collaborative planning that is reflected within the key agency documents.

Prior to all parenting work the Youth Justice Service must contact the relevant Children's Social Care team and establish opportunities for any joint working and information sharing on any open cases.

## **15. INTEGRATED OFFENDER MANAGEMENT (IOM)**

Children who have been assessed as presenting a high risk of serious harm and re-offending require Integrated Offender Management. These children require a multi-agency response and their needs will be discussed at Complex Safeguarding. The Youth Justice Officer and the allocated Social Worker must attend the Complex Safeguarding meeting or send a representative who knows the child and their circumstances. In urgent situations, an emergency Complex Safeguarding meeting can be convened and chaired by a Service Manager.

## **16. SECURE ESTATE WORK & RESETTLEMENT**

Children who are open to the Local Authority and become the subject of a remand to Youth Detention Accommodation or a custodial sentence will remain open cases to Children's Social Care. The Social Worker will be invited, should attend and contribute to all review meetings at the secure facility.

Prior to the closure of a child's case, relevant assessment must have taken place outlining how needs have been, or will be, met. Consultation between relevant Youth Justice and Children's Social Care staff must take place. If the closure of a case is in dispute then this should be escalated to a Senior Manager within both Youth Justice and Children's Social Care for a final decision and agreement.

Sentence planning for children in the secure estate is the responsibility of the Youth Justice Service. The involvement of the allocated Social Worker from the Children's Social Care team on open cases will be an essential component to successful rehabilitation and resettlement.

The successful resettlement of children following a custodial sentence relies upon early and effective planning, as such resettlement planning should commence from the point a child enters the secure estate, day 1.

The Youth Justice Officer will engage with partners, including the allocated Social Worker, from the start of the custodial sentence and will provide early notification and all remand and sentence planning meetings including consideration of Release on Temporary License (ROTL).

The Youth Justice Officer and the allocated Social Worker will work together to support any child released on a temporary licence (ROTL) to ensure the child can attend any appointments or activities that will support successful resettlement, e.g. college or job interviews, placement visits, extended family visits, housing appointments, etc.

If release accommodation is likely to be an issue this needs to be identified as early as possible during the remand or custodial sentence. Discussion should take place between the child, their family, the allocated Social Worker/Team and if appropriate, the Youth Homeless Prevention Team. Where appropriate a referral should be made for a joint housing assessment.

## **17. VULNERABLE YOUNG PEOPLE**

Where a child is being exploited or harmed or there are indicators of exploitation or harm, a Complex Safeguarding and Child Exploitation Notification must be completed and submitted in accordance with the Complex Safeguarding procedures. Where the child is known to both Children's Social Care and the Youth Justice Service this should be jointly completed. Where the child is only known to the Youth Justice Service it should be completed by the Youth Justice Officer.

The Youth Justice Service will be represented at every stage/level of Complex Safeguarding.

Prior to each meeting the Youth Justice representative will ensure all information is gathered to present at the meeting. Where possible the Youth Justice Officer will also attend the meeting. All decisions from the meeting will be fed back and incorporated into the child's Youth Justice plan.

## 18. DISPUTE RESOLUTION

It is acknowledged that for all parties the best interests of children are paramount. However, any differences will initially be dealt with at a case worker level. If differences cannot be resolved the West Sussex Dispute Resolution process must be followed.

<b>Review / Contacts / References</b>	
Document title:	Working Practice Protocol: Youth Justice Service and Children's Services
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Related internal policies, procedures, guidance:	<ol style="list-style-type: none"> <li>1. Pan Sussex Child Protection and Safeguarding Procedures <a href="#">Pan Sussex Child Protection and Safeguarding Procedures</a></li> <li>2. Remand to Youth Detention Accommodation Criteria Flow-Chart <i>Appendix 1</i>(link to be added)</li> <li>3. Remands to Youth Detention Accommodation Process <i>Appendix 2</i> (link to be added)</li> <li>4. Youth Justice Service Safety &amp; Wellbeing framework: <i>Appendix 3</i> (link to be added)</li> <li>5. Youth Justice Outcomes: <i>Appendix 4</i> (link to be added)</li> <li>6. Glossary of Terminology: <i>Appendix 5</i> (link to be added)</li> <li>7. Complex Safeguarding Guidance <a href="https://proceduresonline.com/trixcms1/media/4131/child-exploitation-guidance-for-professionals.docx">https://proceduresonline.com/trixcms1/media/4131/child-exploitation-guidance-for-professionals.docx</a></li> <li>8. Dispute Resolution Process <a href="https://proceduresonline.com/trixcms1/media/4130/practice-guidance-drp.docx">https://proceduresonline.com/trixcms1/media/4130/practice-guidance-drp.docx</a></li> </ol>
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