



**London Borough of Hillingdon and Hillingdon Borough Police Joint Protocol for
considering requests for the provision of accommodation under PACE
Implementation**

1. Introduction

- 1.1 Young people who are processed through police custody include some of the most vulnerable in our communities: those least able to represent their own best interests, control their behaviour and communicate their needs. The custody suite is not a good environment for vulnerable people and every effort will be made to minimize the time they spend in custody.
- 1.2 The primary aim of this protocol is to safeguard young people by avoiding, as far as is practicable, their detention overnight in police custody through the application of a mutually agreed procedure.
- 1.3 This guidance applies to young people between the ages of 10 and 17 years for whom the police seek accommodation from Children's Services subsequent to their arrest and detention at a police station, but prior to a formal remand by the Courts.

2. Context

- 2.1 The police have the power to detain anyone under arrest for up to 24 hours (longer in certain circumstances) while an offence is investigated. By the end of this period they must release or charge the detained person. During this period of detention the police can bail the suspect to return to the police station at a future date, while investigations continue.
- 2.2 Having made the decision that they intend to charge a child or young person with an offence, the police have a number of options;
 - Charge the young person for the offence and bail them to a court date.
 - Charge the young person for the offence and bail them to a court date with conditions attached to the bail if they believe the conditions are **necessary** to ensure the young person attends court or does not commit any further offences whilst on bail. Examples of conditions include;
 - residence
 - curfew
 - surety
 - exclusion zones
 - reporting to police stations
 - bind over of parents/guardian to ensure child/young person complies with conditions (consent required, maximum amount £50.00).
 - Refuse bail and transfer the young person to local authority accommodation prior to attending the next available court.

2.3 This procedure is designed to facilitate a timely and appropriate response to requests for local authority accommodation.

2.4 It is primarily for the use of police custody officers, duty social workers and YOS officers.

3. The provision of accommodation where a suitable bail address has not been identified

3.1 Having decided to grant bail the police may find that there is no suitable address for the young person to return to, for example where a parent refuses to allow a young person to return home or the young person assaulted a parent, and cannot return to the parent's care. In these circumstances the custody officer may contact the local authority to make a request that the young person is accommodated.

3.2 This is essentially a request for accommodation under S.20 Children Act 1989 which should be assessed by the London Borough of Hillingdon in the same way as any other S.20 request. The LA's first preference should be to return the child to the care of their family when and if this is considered a safe enough option. In considering this option it should be noted that the LA may have available access to additional support processes or skills which will facilitate the safe return of a young person to the care of a parent who has previously informed the Police of their refusal to allow the young person to return home.

3.3 It should be noted that under S.20 of the Children Act 1989, a young person cannot be accommodated if those with parental responsibility object and refuse to give such consent. If this happens, the LA should contact the custody sergeant and jointly re-assess the situation.

3.4 When a decision is made to accommodate a young person, London Borough of Hillingdon will follow their own Looked after Children Procedures.

4. Denial of Police Bail and transfer to the local authority.

4.1 The police may charge the young person **and detain** if there are reasonable grounds for believing that the bailed young person would;

- i. fail to appear in court
- ii. commit an offence on bail (imprisonable offence)
- iii. interfere with the administration of justice or the investigation of offences
- iv. cause physical injury or loss or damage to property (non imprisonable offences)
- v. require detention for their own protection or, in the case of a juvenile, 'his own interests'.

4.2 Having made the decision to detain the police will contact the LA to discuss a transfer to local authority accommodation. S38(6) of PACE states that the "Custody Officer shall....make arrangements for the arrested Juvenile to be placed into the care of a local authority and detained by the authority; and it shall be lawful to detain him in pursuance of the arrangements". Under the terms of PACE regulations during the period the young person is placed in transfer accommodation, they are regarded as under arrest, it restricts the young person's liberty and they may be detained in that accommodation.

4.3 When approaching the LAC to discuss transfer the custody officer should provide the following information which will inform decisions about a suitable placement;

- The child's personal information, including any details of vulnerabilities
- The nature of the offence
- An explanation as to why the child/young person has been denied the right of bail, and why conditions would not be sufficient to allay these concerns.
- Details as to when and where the young person must appear in court.

The LA officer may be able to offer other services/interventions that can be attached as a condition of police bail similar to the provision of the court bail supervision and support services by the Youth Offending Service.

4.4 It is for the LA to determine what type of accommodation is sought for the young person. In some circumstances, following assessment, a placement within the family will be considered appropriate; for others supported residential or foster care or 16+ accommodation will provide the necessary care and supervision. In deciding the most appropriate placement for the young person, the LA will need to be mindful that the young person must appear in court at the required date, which will usually be the day after discharge from police custody.

4.5 Once appropriate accommodation has been identified by the LA, police will transfer the young person from the custody suite to the accommodation. The LA will ensure that it has made appropriate arrangements to transfer the young person to the court hearing.

4.6 Any child or young person transferred under PACE will become LAC under Section 21 of the Children Act 1989 until the hearing.

4.7 The Police must make arrangements to transfer the young person to local authority accommodation in every case, unless it is **'impracticable'** to do so. In this context the term 'impracticable' has a very specific meaning within the PACE codes of Practice. It does not relate to the availability of local authority accommodation or the nature of it, the young person's behaviour or the nature of the offence with which he/she is charged. The circumstances in which a transfer would be impracticable are those, and only those, in which it is physically impossible to place the juvenile in local authority accommodation. These might include extreme weather conditions (e.g. floods or blizzards), or the impossibility, despite repeated efforts, of contacting the local authority.

4.8 A decision of no transfer should be made by inspector rank or above and the reasons should be recorded on a PACE38(7) certificate which must be presented to the court at the hearing for scrutiny with any apparent or suspected failures flagged to the relevant agency.

4.9 The lack of secure local authority accommodation does not make it impracticable for the custody officer to transfer. The availability of secure accommodation is only a factor in relation to a juvenile for whom other local authority accommodation would not be adequate to protect the public from serious harm from the juvenile (see below).

5 Requests for Transfer to a Secure Accommodation

5.1 Following a denial of police bail the custody officer may ask the LA to identify a secure placement for the young person (if they are aged over 12), however in doing so he/she must certify that to hold the young person in accommodation other than secure

provision would be inadequate to protect the public from “serious harm” from the charged young person in the period between being charged and appearing in court.

5.2 The threshold for serious harm is very high. Section 38(6)A of PACE defines ‘serious harm’ in the context of violent and sexual offences as ‘death or serious personal injury, whether physical or psychological.’ Whilst ‘serious harm’ is not defined in relation to other offences, the definition above should be taken as an indicator of the degree of harm to which the public would have to be exposed from the juvenile charged with any other offence before the test is likely to be satisfied. Where deeming a young person as likely to pose a risk of serious harm, the time period before the young person appears in court may be a significant factor.

5.3 Requests for secure accommodation are in effect a request to place a child in a Secure Children’s Home under the modified criteria contained in section 25 of the Children Act. Therefore in responding to such requests the LA must be assured that these criteria are met, ie that the child or young person;

- (i) Has a history of absconding and is likely to abscond from any other description of accommodation **and**
- (ii) If he/she absconds they are likely to suffer from serious harm

or

- (iii) If kept in any other form of accommodation he/she is likely to injure himself or others

If the LA feels it cannot lawfully place in secure, discussions need to be escalated to the next management level in both organizations.

5.4 Secure accommodation is a national resource. Where the request is made and the local authority officer has confirmed that the threshold has been met, he/she will contact the National Bed Bank to identify any placement options.

5.5 If a bed is available consideration will be given to the distance to the unit and the travel time involved, the time of the day of the placement is being sought and the length of time until the court appearance. Consideration will have to be given as to whether it is in the child or young person's best interest to travel a considerable distance only to return back to the court a few hours later. Decisions will have to be made on a case by case basis. If there are no secure places at a reasonable travel distance this could potentially justify a decision that it is impracticable to supply a placement.

5.6 Police will transfer the young person from the custody suite to the accommodation identified. The LA will ensure that it has made appropriate arrangements to transfer the young person to the court hearing.

5.7 If the LA fails to find secure accommodation or reach an agreement with the police as to a suitable alternative the custody officer will have to retain the child in custody for the protection of the public.

6. Young People not normally resident in Hillingdon

6.1 Case law has clarified that the Police may approach any Local Authority to request PACE accommodation or transfer and it becomes the responsibility of the chosen LA to meet this request.

- 6.2 When considering the possibility of requesting accommodation under PACE, the Custody Sergeant will usually contact the London Borough of Hillingdon in which the custody suite is located. However if the young person resides in a borough immediately adjacent to Hillingdon such as Ealing, Hounslow or Slough, or where shared custody suites develop across borough boundaries, then it will be more appropriate to contact those authorities in the first instance.
- 6.3 When the police request a placement for a young person whose ordinary residence is outside the London Borough of Hillingdon it may not be in interests of the young person to be transported to a distant area (possibly out of hours) and the logistical arrangements associated with arranging the transport of the young person may be prohibitive and impractical. In these circumstances the LA in which the young person is being held will liaise with their "home" authority and agree whether a transfer to that area or seeking a local solution is most appropriate. In such circumstances the Local Authority which processes the referral will seek to recoup all associated administrative management and placement costs.
- 6.4 Daytime contact arrangements for the LA/YOS are attached to this protocol and it is the duty of the LA to ensure that they are kept up-to-date. Out of hours contact arrangements (including a local definition of the hours covered by this service) will also be provided to the custody suite by the LA. The LA will also provide details of any PACE resources they will make available to accommodate young people and indicate whether these might also be available for use by other LAs.
- 6.5 When contacted by the Custody Sergeant, the LA will make any immediate arrangements necessary to respond to the young person's needs in order to give them the maximum opportunity to respond to the transfer request.

7. Problem Solving and System Learning

- 7.1 The police will identify a senior officer with responsibility for overseeing the implementation of this protocol. The London Borough of Hillingdon will identify a senior officer to act as a contact point for the police lead. The designated senior officers will act as a reference point should operational staff be unable to reach agreement on the management of a case – in effect they will provide first level of escalation. In addition, the Police lead will provide the LA with details of requests made that did not lead to the provision of accommodation and the LA will use this communication channel to raise issues relating to young people for whom a transfer was not sought.
- 7.2 The police will provide regular data reports on the numbers of children detained by the police; those denied bail; and those for whom accommodation is requested from the London Borough of Hillingdon and whether it was provided.
- 7.3 The London Borough of Hillingdon Safeguarding Partnership has requested information about the operation of PACE arrangements and it is suggested that the Partnership should receive a regular monitoring report derived from the operational data the police have agreed to collate.
- 7.4 The operation of this protocol will be reviewed by Police and the London Borough of Hillingdon in **(insert date)**.

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