

## 14. PART 14 - Young Persons in Police Detention

*Part 14 - This section details the specific requirements relating to the detention of young persons. It should be read in conjunction the Police and Criminal Evidence Act 1984.*

### 14.1. Definition

A Juvenile for the purposes of the 1984 Act is any person who is under the age 17 or who appears to be under the age of 17 until it is established that he/she is 17 or over ([PACE Code C Para 1.5](#)). For the purpose of this policy the term 'Juvenile' will mean young person.

### 14.2. Duty to Safeguard Children

The police and a number of other agencies have a duty under section 11 of the Children Act 2004 to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children.

In addition, The Human Rights Act 1998 places positive obligations on police officers to take reasonable action, within their powers, to safeguard the rights of children.

### 14.3. Risk Assessment

When carrying out the risk assessment as per [Part 2 - Risk Assessment and Management](#), consideration must be given to specific areas which could adversely impact upon young persons. For example, the risk to a young person from excessive alcohol consumption is likely to be much greater than to an adult.

### 14.4. Juvenile Detention Rooms and Cells

All juveniles who are arrested and detained in a police station in the West Midlands will be placed in a Juvenile Detention Room (JDR).

JDRs differ slightly from adult cells in that they do not have solid metal doors, cell hatches and toilet facilities. When conducting reviews or providing food and drinks custody staff must ensure they look through the spy hole where available before entering the room to prevent accident and injuries.

JDRs must be cleaned and inspected daily as part of the [Quality Assurance and Inspection Framework](#). A JDR must be inspected before a juvenile is allowed to enter and inspected when they leave for prohibited articles and damage to the room. See [Part 7 - Detainee Care - \(Para 7.7 - Cell Searches\)](#).

Only one detainee is to be placed in the JDR at any one time. Where no JDR is available a juvenile can be placed temporarily in an adult cell. The reasons for placing the juvenile in an adult cell must be recorded in the custody record.

High risk juveniles must be placed in a CCTV room and the appropriate level of observations deployed subject to risk assessment deemed by the Custody Officer.

## 14.5. Penalty Notices for Disorder

Penalty notices for disorder (PND) may be used to deal with youths. Home Office advice is, however, that other options should be used if there are concerns for their welfare. Young offenders cannot be issued with PNDs for possession of cannabis.

PNDs are now available for a range of offences beyond disorder. See [Policy and Procedure Manual: P15d](#) for a list of offences for which PNDs can be issued and for policy on issue to Young Offenders.

## 14.6. Sharing of Information and Duty of Care

Local Safeguarding Children Boards (LSCBs) require effective information sharing systems. The Children Act 2004 encourages agencies to share early concerns about the safety and welfare of children, and to take preventive action.

The Crime & Disorder Act 1998 laid the foundations for a joined-up approach to tackling crime and disorder by establishing local partnerships between local authorities and police forces, together with various other bodies invited to co-operate. The act gives these partnerships a legal power to share information for the purpose of preventing or reducing crime and disorder under an agreed objective.

### 14.6.1. Notifying Parents / Other Agencies

When a juvenile or young person is in custody their welfare needs must be considered and a decision made as to whether other agencies should be informed.

If the detainee is a juvenile, the Custody Officer must, if it is practicable, ascertain the identity of a person responsible for their welfare.

[PACE Code C](#) gives specific guidance on the people who must be contacted when a juvenile or young person is in custody.

Police Officers and Police staff may act as appropriate adults providing they are the juvenile's parents and have no knowledge of the case prior to attending. See [Para 14.9](#) which gives information on appropriate adults.

### 14.6.2. Statutory Rights of a Child or Young Person

All juveniles and young persons will be given their statutory rights as part of the booking in process even if the appropriate adult is not present. All sections relating to detainees' rights can be found in [PACE Code C](#).

### 14.6.3. Searching Juveniles or Young Person

All juveniles and young persons will be searched when they arrive in custody (Sec 54 PACE) which can be carried out in the absence of the appropriate adult.

Strip and Intimate searches must be carried out in the presence of an appropriate adult. ([Annex A - PACE Code C](#)). Except in cases where the juvenile signifies in the presence of the appropriate adult that they do not want the adult to be present during the search and the adult agrees.

A strip search may take place in the absence of an appropriate adult only in cases of

urgency when there is a risk of serious harm to the detainee or others.

#### 14.6.4. **Intoxicated Child or Young Person**

Severely intoxicated juveniles will be treated as a medical emergency and will always be transferred to hospital. Severely intoxicated juveniles are at greater risk of suffering Hypoglycaemia (low blood sugar) which may result in brain damage.

#### 14.6.5. **Breath Test Procedures**

The presence of an appropriate adult is not a pre-requisite when requiring a juvenile to provide a sample of breath/blood/urine for analysis under drink/drive procedures of the Road Traffic Act 1988 although the parent or guardian must be informed of the juvenile's detention as soon as possible in the normal way.

#### 14.6.6. **Interviews**

An interview is the questioning of a person regarding their involvement or suspected involvement in a criminal offence or offences which, must be carried out under caution. Whenever a person is interviewed they must be informed of the nature of the offence, or further offence, concerned.

##### **Urgent interviews at police stations.**

Juveniles and young persons may not be interviewed without an appropriate adult being present unless an officer of superintendent rank or above considers delay will lead to interference with, or harm to, evidence connected with an offence, interference with, or physical harm to other people or serious loss of, or damage to property, lead to alerting other people suspected of committing an offence but not yet arrested for it; or to hinder the recovery of property obtained in consequence of the commission of an offence and is satisfied the interview would not significantly harm the person's physical or mental state.

Interviewing in any of these circumstances shall cease once the relevant risk has been averted or the necessary questions have been put in order to attempt to avert that risk.

Custody Officers must also consider the use of Part IV bail unless this is clearly inappropriate due to the nature of the offence under investigation or welfare issues.

Details will be recorded on the custody record. Procedures for interviewing can be found in [PACE Code C and Code E](#).

#### 14.6.7. **Child Witnesses**

It is no longer necessary for an appropriate adult to be present when a juvenile is interviewed as a potential witness, or when such a person makes or signs a witness statement although officers should be sensitive to the perceptions of the juvenile's parent or guardian and obviously, the younger the juvenile, the more desirable it will be to have an appropriate adult present.

#### 14.6.8. **Charging**

Charging of juveniles will take place in the presence of an appropriate adult if they are still at the police station. If they are not at the police station then all efforts should be made to secure attendance prior to charge unless the juvenile has been released. [PACE Code C](#)

[Part 16 para \(16.6\) \(16.7\)](#). It is unlawful to detain a person in custody awaiting appropriate adult once a decision to charge is made. Where a juvenile is jointly charged with an adult that juvenile will be bailed to an adult Court.

#### 14.6.9. Fingerprints, Photographs DNA and Samples

Juveniles who have been detained for a recordable offence or have been charged, reported, reprimanded, finally warned or given a PND will have fingerprints, photograph, DNA samples and footwear impressions taken.

There is no requirement for an appropriate adult to be present when taking fingerprints, photographs, DNA and footwear impressions from a juvenile. Where consent is required before taking fingerprints etc the parent or guardian must be fully informed of the circumstances before consent is requested but is still not required to be present for the procedure (PACE Code D and Notes for Guidance 2A).

#### 14.6.10. Bail

Where bail is refused the Custody Officer must contact the local social services and request them to provide secure accommodation for the detainee.

If social services are unable to assist or it is 'impracticable' to transfer the juvenile to local authority accommodation resulting in the juvenile having to be retained in police custody, the Custody Officer must complete an 'unruly certificate' Form 449 (printed from ICIS). This will be attached to the prosecution file for Court. The Custody Officer must update the EDL with the reason why the detainee is to be remanded in police custody and the contact details of the Social Services staff they spoke to.

#### 14.6.11. Child Trafficking

Under section 46 of the Children Act 1989, where the police have reasonable cause to believe and be concerned that unless they take appropriate action a child is likely to suffer significant harm, they may use their powers to either remove a child to a safe place or prevent the child's removal from a safe place, for example a hospital.

In the event of a child or young person being held in custody for any offence and there is a suspicion that the detainee is subject of child trafficking then the PPU must be informed immediately. The PPU will undertake to alert the relevant Immigration Office and the Metropolitan Police 'Operation Paladin'. They will also engage with the relevant Children's Services and Local Authority in order to put proactive safeguarding measures in place.

In the event of the arrest being outside of the PPU working hours then the onus for Children's Services, the Local Authority and the Immigration Office being informed will be the responsibility of the officer who has responsibility for the investigation. Under these circumstances the relevant PPU must also be informed at the earliest opportunity.

It is important that officers investigating offences committed by children who may have been trafficked are able to recognise and identify such cases. The child's welfare needs and safety must be taken into account and appropriate safeguarding processes should be followed. A designated police officer will act as a single point of contact for considering any issue related to child trafficking.

The Chief Police Officers (ACPO) has issued guidance to all police services to this effect.

#### 14.6.12. Young Person Seeking Asylum

Under section 46 of the Children Act 1989, when the police are concerned that unless they take action the child is likely to suffer significant harm, they may use their powers to either remove a child to a safe place or prevent the child's removal from a safe place, for example a hospital.

The Public Protection Unit (PPU) will undertake to alert the relevant Immigration Office along with the Metropolitan Police, Operation Paladin. They will also engage with the relevant Children's Services and Local Authority in order to put proactive safeguarding measures in place.

Upon recognising a child or young person who is seeking asylum is in police custody then the Immigration Office, local Children's Services and the Local Authority must be informed immediately.

For more information see *Sharing Personal and Sensitive Personal Information in Respect of Children and Young People at Risk of Offending, A Practical Guide*, issued in partnership between the Youth Justice Board and ACPO 2005, [Part 8 – Departure and Remand](#) and *ACPO (2003) Strategy for Children and Young People*.

#### 14.7. Girls Under the Age of 18 years

Girls under the age of 18 years must be under the care of a woman while being detained, conveyed or waiting to be so. This requirement comes from section 31 Children and Young Persons Act 1933 which takes precedence over the Sex Discrimination Act 1975.

'Under the care of a woman' in this context means a female police officer or female member of police staff must be assigned responsibility for the care of a female detainee under the age of 17 years while they are in police custody.

Subject to the risk assessment the 'carer' need not be physically present with the detainee at all times but must be readily available. Each case must be treated individually and consideration should always be given as to whether a carer should be physically present or not. The assigned responsibility can also be shared by more than one female carer.

On being assigned, the carer should arrange with the Custody Officer visits to the detainee and check their welfare needs. The carer must be informed of any matters affecting the well-being of the detainee and should regularly check on her welfare. The detainee should be told that she can ask to see the carer at any time.

#### 14.8. Transportation of Juvenile Detainees

Children or young persons should not be allowed to associate with adult detainees unless association with jointly charged adults and relatives is permitted in accordance with section 31 Children and Young Persons Act 1933. Arrangements to prevent this should be made when the child or young person is:

- Detained in a police station;
- Being conveyed to or from any criminal court;
- Attending court;
- Young persons should not be carried in a vehicle with adult detainees.

Girls under the age of 17 years must be under the care of a woman while being conveyed.

For more information regarding transportation of detainees see [Part 5 - Transportation](#).

## 14.9. Appropriate Adults

Section 38 of the Crime and Disorder Act (1998) made statutory provision to require local authorities and others, through Youth Offending Teams, to ensure the provision of Appropriate Adult services in their area to safeguard the interests of children and young persons detained or questioned by police officers.

The role of the Appropriate Adult is defined in the Police and Criminal Evidence Act (PACE) 1984, Code of Practice C. The role is 'to support, advise and assist' detainees in a police station who are either juveniles under the age of 17 or adults who are mentally vulnerable.

Young people under the age of 17 and adults who are considered to be mentally vulnerable must have an appropriate adult with them when they are interviewed by the police. An appropriate adult can be a family member, friend or often a volunteer or social/health care professional. Increasingly organised groups of trained volunteers carry out this very important role.

When dealing with a young person aged 17yrs, they must be asked if they wish to have an Appropriate Adult (AA) present and if they say yes or they are considered vulnerable or in the best interests of the case they should have an AA present then arrange one. If they decline and they are not considered vulnerable, and the case is unlikely to be prejudiced then it will be in order to continue without an AA.

Where a family member is not available then the Youth Offending Team (YOT) or the Emergency Duty Team (EDT) must be contacted to represent the Juvenile or young person. For further Information on YOTS see the next paragraph below.

Appropriate adults must be aware of their role as defined by PACE. For further information see Codes of Practice and section 38 Crime and Disorder Act 1998.

## 14.10. Youth Offending Teams (YOTs)

Youth Offending Teams (YOTs) are made up of representatives from the Police, Probation and Social Services, Health, Education, Drugs and Alcohol Referral teams and Housing Officers. Each YOT has a manager who is responsible for coordinating the work of the youth justice services.

The YOT is automatically notified of young persons under the age of 18 years who are issued with a reprimand or final warning.

Custody Officers must ensure that concerns arising from the detention of a child or young person are communicated to the appropriate agency. Information sharing is required when a child is to be released from police custody if:

- There are concerns about their welfare arising from risk assessments or other available information;
- There is a risk of significant harm to the child;
- This information may be relevant and allow agencies to protect the welfare of a child.

Each custody suite must have contact details of their local YOT and use this service where applicable. There are two ways in which referrals are made to YOTs.

1. Every detention will lead to ICIS automatically printing a Youth Referral Form

(WG455) to the YOT office.

2. The police early notification to YOTS (PENY) by automated e - mail will inform YOTS every time a crime is cleared for a youth offender on CRIMES.

See also the leaflet - '[\*Guide for parents and carers for young persons in police detention.\*](#)'