

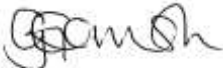

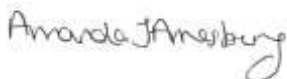




Youth Justice Services for Cheshire East, Cheshire West, Halton and Warrington

Joint Procedures and Practice Guidance for Children in Care and the Criminal Justice System

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1. Introduction

1.1 Children and young people currently in, or those who may be placed into, the care of Cheshire East, Cheshire West and Chester, Halton or Warrington Local Authorities (LA’S) as a direct result of their offending behaviour will receive the same quality of care as all other children in our care. The Joint Procedures outline the expectation of staff from the Youth Justice Service and CWAC CSC, East Cheshire CSC, Halton CSC and Warrington CSC in delivering a service to children and young people who are in Care and in the Criminal Justice System.

1.2 The procedures follow the service needed for children and young people during each stage of their involvement with the CJS.

2. Children in care who are arrested

2.1 All agencies working within the criminal justice and care agencies in Cheshire are committed to reducing the criminalisation of cared for children, and this has been a well established area of focus for some time. This has been formalised through the 2021 Pan Cheshire Protocol – “Reducing the unnecessary criminalisation of children in care and care leavers”. This involves thought for alternative ways of managing behaviour and potential offences at the point of the behaviour occurring, decisions to arrest, decisions to charge, and consideration of out of court disposals to avoid court sentencing.

Where a child in the care of the LA is arrested and s/he is aged under 18, the local authority social care team with responsibility for the care of the child should ensure that the child has the support of an appropriate adult and all

eligible, relevant and former relevant (former relevant young people are aged 18-21) young people should be provided with access to appropriately trained legal support before and during formal interviews with the Police and when placed before the courts.

An Appropriate Adult is to attend as soon as possible and within a 2 hour time frame of the request being made. (Youth Justice Board 2014 Case Management Guidance sets this out).

The Appropriate Adult's role is to protect the interests of the cared for child or young person, to advise and support them, and ensure they are fairly treated and their needs are met. They should also be able to support any mental health need or learning and communication difficulty. In addition, any Appropriate Adult can help the young person access legal support and can insist that this is provided even if the child or young person refuses this.

- 2.2 Where a child or young person has been arrested and/or charged, it is good practice to consider reviewing the child's Care Plan or Pathway Plan to ensure that appropriate measures are in place to address the causes of offending. That review should include input from YJS who can advise on prevention, risk reduction and offender management programmes.

3. Children in Care who are charged with an offence

- 3.1 When a child in the care of the LA is charged with an offence the social worker or a known representative e.g. community support worker, should always attend court to support the young person and the judicial processes and be available to answer questions should the court require. The local authority must ensure they are legally represented by a solicitor.
- 3.2 Where the young person already has an allocated YJS worker, they should work with CSC to identify suitable bail support programmes to ensure that the court is fully aware of all viable alternatives to custody.

4. Police and Criminal Evidence Act (PACE 1984)

- 4.1 A child who is not currently looked after may become so once s/he is involved with the Police and the Youth Justice System. Under PACE guidance, the LA's may be required to accommodate a child or young person when:
- Requested by Police to transfer a young person in detention to the local authority under Section 21 CA 1989 pending a court hearing under the Police and Criminal Evidence Act 1984 (PACE).

5. Children in care who are remanded

- 5.1 In general, there are a number of options open to the court when considering how best to respond to a child or young person charged and placed before

them including dismissal, bail, remand or custody. The types of remand are as follows:

- 10 - 17 year olds can be remanded into the care of the Local Authority and will have Looked After Child / Child in Care Status;
- For 12 – 17 year olds a condition can be added for securely remanding young people to youth detention accommodation (YDA); which includes Secure Children’s Homes; Secure Training Centres and Young Offender Institutions

5.2 Once a child or young person is remanded to Youth Detention Accommodation they become a Looked After Child/Child in Care and are eligible for leaving care services in line with the Leaving Care legislation, and their leaving care status (if they are looked after for at least 13 weeks after the age of 14, some of which must be either on or after their 16th birthday. The whole 13 weeks may accrue after their 16th birthday) if they are looked after beyond 13 weeks. When they are remanded into YDA they are not placed by the LA but by the YCS Placement team.

- o Appendix One provides a flowchart of responsibilities and actions in relation to remands to youth detention, in line with the Legal Aid, Sentencing and Punishment of Offenders ACT 2012 and Police, Crime, Sentencing and Courts Act 2022. The recent legislation has updated these criteria to make remands into YDA much more of a last resort, and to more explicitly take into account the welfare of young people. The court must first consider the best interests and welfare of the child when deciding on a remand into YDA. They are prompted to consider remand into Local Authority Accommodation as an alternative.

The court has to be satisfied that ONLY a remand into YDA would protect the public from death or severe injury, or to prevent further imprisonable offences being committed, and the risk cannot be managed in the community.

The court must now state in open court and provide in writing the reason for the remand, and that they have considered Remand into Local Authority Accommodation, as well as the interests and welfare of the child in their decision.

5.4 When a child is remanded, the social worker should request a copy of the complaints procedure for the establishment. Social Workers should then familiarise themselves with the complaints process and check that the child has been provided with information which they understand about the complaints process and any entitlement to advocacy.

- 5.5 Young people who are remanded should also be provided with information which is routinely provided for all children who become cared for e.g. Contact details of their social worker, IRO and out of hours support and/or contact details about local Children's Rights/ Advocacy Service / Independent Visitors for Cared for Children.
- 5.6 Where a child is not already cared for but becomes cared for as a result of being remanded to YDA, the local authority responsible for the child's care is not required to prepare a Care Plan or a Placement Plan; instead, following an initial assessment of the child's needs, a Detention Placement Plan (DPP) should be prepared. When a child is already cared for a DPP should be undertaken in place of the care or pathway plan during the duration of the period of remand, after which the plan will revert back to the care or pathway plan. The DPP should describe how the YDA will meet the child's needs, and record the roles and responsibilities of the other partner organisations. The DPP should also take into account the circumstances that contributed to the child's alleged involvement in any offending and the support s/he should be offered when they return to the community to prevent (re)offending. The designated authority will need to appoint an Independent Reviewing Officer (IRO), to keep the child's DPP under review in the same way as a care plan.
- 5.7 For as long as they remain cared for, these children are entitled to the same care planning and review processes as other cared for children. In developing the DPP for children who become cared for solely as a result of being remanded, the local authority is not required to prepare a 'plan for permanence', as required by Regulation 5(a) of the Care Planning Regulations. This amendment to local authority care planning duties recognises that some children will only be cared for during the period they are remanded, which may be relatively short. Nevertheless, consideration should still be given to what longer term support or accommodation the child will need following the remand episode. If children need to remain cared for once the period of remand has ceased, then the local authority must comply with all the requirements of the Care Planning Regulations.
- 5.8 When a cared for child is remanded, the IRO should be notified as soon as possible. If the review uncovers concerns about where the child will be living or support available to them in the community, consideration may have to be given to whether the child should remain cared for once they are no longer on remand. Cared for Review meetings of children who are on remand should always consider the child's support needs when they cease to be cared for as a result of the remand ending.

6. Children in care who are convicted

- 6.1 Where a child in care is convicted of an offence, the local authority social worker should liaise with the allocated YJS case manager and share all appropriate information necessary during the completion of the ASSET PLUS (YJS assessment tool)

- 6.2 When preparing the young person's Pre-Sentence Report (PSR) the YJS case manager should consult with the child's social worker over its content and the recommendations to the court.
- 6.3 The social worker and YJS officer should agree and provide information to the court in respect of the interventions and support that would be made available if the child were to receive a community disposal.
- 6.4 If a custodial sentence is likely, the YJS case manager and social worker should work together to prepare the child and his/her family by explaining what will happen and how the child will be supported and supervised during and after the period of custody.
- 6.5 The allocated social worker should, where the young person is estranged from family, attend court to support the young person and the court process if required. The social worker and the YJS officer should agree, prior to sentencing, how the decision of the court will be notified to the family, their placement and any other connected persons/agencies. This notification should take place on the same day as sentencing.

7. Requirements following sentence

- 7.1 Following sentence, a child's legal status may change dependent upon their care status at the time of sentencing and the nature of any sentence.
- **Community Sentence;** following a community sentence by the courts, the social worker and YJS case manager should continue to work in partnership to meet the needs of the child.
 - Children, who prior to the community sentence, were provided with accommodation under section 21 following a remand to local authority care, will cease to be a child in care (unless it is decided to accommodate them under section 20).
 - If the court imposes a Youth Rehabilitation Order, this can be accompanied by a Local Authority Residence Requirement or Intensive Fostering Requirement. Such children are provided with accommodation under section 21 and will therefore be a child in care and the authority must be consulted before these requirements are imposed.
 - **Custodial Sentence;** where a child in care receives a custodial sentence by the courts, the following applies;
 - If the child is subject to a Care Order under Section 31 CA 1989, they will remain a child in care and there is no change to their legal status or the statutory duties and responsibilities held by the LA.
 - If the child was accommodated under Section 20 CA 1989 prior to sentencing, they will cease to be a child in care whilst serving the

custodial sentence. They will be entitled to consideration as a child who has ceased to be a child in care including the requirement to visit within 10 days of detention and, where reasonable, to additional visits if requested by the young person, a parent, unit staff or, YJS officer.

- If the child was remanded into the care of the local authority under section 23 of the Children and Young Persons Act 1969, and therefore looked after by virtue of section 21, they will cease to be a child in care on being sentenced to custody.
- If the young person is a 'relevant child' and entitled to support and services as a care leaver, this status remains unchanged whilst in custody and the LA retains responsibility for providing support during the period of custody and upon release. Some young people will acquire this status whilst they are in custody on attaining the age of 16 (if they have spent at least 13 weeks in care since the age of 14 and were a child in care subject to a care order or an accommodated child immediately prior to entering custody). (Similarly, the LA retains its duties towards a Formerly Relevant young person if he or she enters custody). Duties towards young people will take into account the responsibilities and legislation relating to leaving care, and different care leaver status.

8. Information sharing

8.1 Where a child in care is serving a sentence within a Secure Children's Home, Secure Training Centre, or Youth Offender Institution, the establishment will require all relevant information to enable them to meet all identified needs. The social worker should, within **five working days** of the child's remand or sentence to custody, contact the child's YJS case manager and the designated case supervisor within the establishment to inform them of:

- the child's care status, including his/her entitlement to support as a care leaver;
- persons with parental responsibility for the child;
- name and contact details of the allocated social worker, his/her team manager and IRO;
- any immediate information necessary to ensure the child's safety or the safety of others;
- relevant information about the child's family/carers and contact arrangements;
- relevant information about the child's needs that will enhance the establishment's ability to care for the child;
- the date when the social worker or local authority representative will be visiting the child; and
- The date of any forthcoming review of the child's case.

8.2 All information supplied in 8.1 above should be followed up in writing to both the establishment and the YJS case manager.

9. Visits to secure settings

- 9.1 When a Child in Care is sent to Youth Detention Accommodation, a representative of the local authority must visit the child **within one week** of them being sentenced. This representative should be the child's allocated social worker and the role must not be fulfilled by the YJS case manager. Subsequent visits must take place at intervals of **not more than six weeks** for the first year and **not more than three months** after that. Additional visits should also take place if reasonably requested by the child, the establishment, or YJS case manager, or if there are particular circumstances that require a visit.
- 9.2 It is also good practice for the social worker to attend the child's remand or sentence planning meetings to ensure they maintain their relationship, assess any ongoing needs and update care or pathway plans. Social workers should be afforded the same status as legal visitors rather than the more limited access to the child that applies to family visits.
- 9.3 Notwithstanding these joint working procedures, the local authority will continue to meet their requirements under the Care Planning guidance. Where these are in line with YJS guidance and requirements, it will be good practice to work together to avoid duplication, whilst ensuring that arrangements are in place for young people's welfare and to challenge offending behaviour.

10. Custodial placements allocation

- 10.1 The Youth Custody Service (part of the Youth Justice Board) service is responsible for identifying the Youth Detention Accommodation where the young person will serve their sentence. The YJS case manager recommends which establishment they consider to be most suitable and the social worker should ensure that they contribute to this recommendation. When advised by the YJB, the YJS case manager should inform CSC where the child will be serving their sentence on the day that detention begins.
- 10.2 The social worker will inform the Independent Reviewing Officer and arrange to visit within one week of detention and subsequent visits should be not more than six weekly in the first year and three monthly thereafter.

11. Placement retention

- 11.1 Where the child is remanded for a short period or serving a short sentence, (the minimum period of time in custody on a short sentence is 2 months) and was making good progress in care placement before entering custody, consideration will be given to retaining that placement until release. If this is not appropriate in the light of the offence or practicable in terms of the length of the sentence and therefore cost, an alternative placement should be sought as soon as is practicable before the completion of the sentence.

12. Safeguarding and welfare concerns

- 12.1 All members of staff working within secure establishments have a duty to ensure that children and young people are safeguarded effectively.
- 12.2 The Youth Detention Accommodation placements use a care-planning system called ACCT (Assessment, Care in Custody, and Teamwork) which helps identify and care for young people at risk of suicide or self-harm. The Establishment will inform the YJS when an ACCT has been opened on a young person. The YJS worker must then comply with the YJS Safeguarding Children in Custody Practice Guidance. This states that if a young person is placed on an ACCT for longer than a 24 hour period then the YJS worker must reassess their vulnerability and arrange for a YJS High Risk Review Meeting. A representative of the Local Area Safeguarding Partnership will attend this meeting for all children and young people in custody subject to an ACCT for more than 24 hours. This is to ensure that the YJS and the Youth Detention Accommodation placement has considered all safeguarding aspects of the of the young person's case.
- 12.3 All children and young people in detention should have a case supervisor within the establishment. YOI's are also required to have a 'safeguarding children's manager' and a social worker based within the establishment who can assist in managing the safety of a child in care and custody. Where a child in care is placed within SCH's and STC's, the social worker should approach the unit manager or a designated lead for safeguarding.
- 12.4 Where issues cannot be resolved directly with the establishment level and concerns regarding a child in care remain, Children's Social Care can consider the involvement of external agencies e.g. YJS, Youth Custody Service, Local Area Children Safeguarding Partnerships. If the concerns are such that Children's Social Care feel a child in care is unsafe and needs to be moved, the social worker should consider the requirements of the YJB Transfer Protocol and initiate an urgent request in writing to the Youth Custody Service expressing their concerns regarding the current placement.

13. Care planning and custody

- 13.1 Being placed in custody is a significant change to arrangements for care planning and if a review was not already scheduled to take place, it is a requirement that one should be scheduled during the period that the young person is in custody. The usual minimum statutory timescales for reviews apply thereafter and depending on the length of the child's stay in custody, consideration should be given to undertaking a review within the last month before release to ensure that the child's care plan is updated to reflect their needs upon release.
- 13.2 Care should be taken to ensure that relevant health and education information (including EHCPs) are shared with the secure estate placement in time for the first care planning and/or sentence planning meeting in custody. The day to day health needs of the child in custody will be met by health professionals within the secure placement but continuity of health care and education is a priority and the health and education needs of children placed in custody

should not be compromised and they should receive the same attention from corporate parenting professionals as cared for children living in the community.

- 13.3 The YJS case manager should be kept informed of changes to the child's care plan and, subject to the child's agreement, they and the nominated link person within the establishment should be invited to attend all statutory review meetings.

14. Sentence planning

- 14.1 Each child detained in a secure setting through criminal justice legislation must have a remand or sentence plan, supervised by the YJS case manager. Remand and sentence planning serves a different purpose from care or pathway planning. The process is designed to plan the activities the child will engage in during his/her time in custody and, for sentenced children, on release into the community. It is aimed primarily at reducing the risk of offending. Meetings are chaired by a YJS case manager or a member of staff from the establishment.
- 14.2 The child's social worker should always be invited to remand or sentence planning meetings and his/her input will be integral to effective resettlement planning. It is good practice for him/her to attend as many meetings as possible but, as a minimum, s/he should attend the first meeting and the pre-release preparation meeting where the plan for release is discussed. For longer sentences or where there are particular difficulties, it will be appropriate to attend more often.
- 14.3 If the social worker is not able to attend, s/he must provide relevant information about the child's care or pathway plan to the YJS case manager prior to the meeting. The YJS case manager is responsible for making the links between the respective plans and feeding information back.

15. Planning release

- 15.1 When sentencing children in care, the courts can make such orders where all, or part of the sentenced is served in the community under the supervision of the YJS case manager. Those young people who are sentenced to a Detention and Training Order (DTO) (the most common form of custodial sentencing), the second half of the sentence will be served in the community under the supervision of YJS.
- 15.2 The child's social worker and YJS case manager must work together to co-ordinate arrangements for the child's release and subsequent support in the community. The child will continue to have two separate plans: their formal statutory care plan (which may include the pathway plan) and their YJS plan. These must, however be coordinated so that the child is clear what will be happening and the practitioners are clear about their respective roles.

- 15.3 Where a formal review of the child's care plan has not already occurred, this must be arranged by the IRO to take place prior to the child's release from custody. The timing of this review might be scheduled so that it is co-ordinated with the release preparation meeting.
- 15.4 If the child is to remain a child in care all aspects of the future care should be reviewed including placement provision, financial support, education requirements, contact, ongoing YJS requirements, offender management programmes, etc. Where requirements may overlap e.g. health or education, the social worker and YJS case manager should work in partnership to avoid duplication.
- 15.5 As soon as possible, and at least by the time of the final sentence planning meeting **ten working days** before release, the child must be told the content of both the care plan and the Notice of Supervision or Licence so that s/he is aware of:
- who is collecting him/her;
 - where s/he will be living;
 - the reporting arrangements;
 - sources of support – including out of hours;
 - the arrangements for education or employment;
 - arrangements for meeting continuing health needs;
 - how and when s/he will receive financial support;
 - when s/he will be seeing his/her social worker; and
 - the roles and responsibilities of the respective practitioners.

16. Accommodation

- 16.1 The Local Authority will ensure that all young people who are in care, eligible to leave care or are relevant care leavers, being released from a period of detention or custody, will be provided with suitable accommodation in accordance with the guidance set out in the protocol between Housing, Social care and YJS (Southwark protocol). The arrangements and plan for release should be in place 4 weeks prior to release on licence. It is understood that there may be delays at times in confirming accommodation by the 4 week timescale, therefore there may be some flexibility in relation to this which will be discussed on a case by case basis. If accommodation is not identified 4 weeks prior to release in accordance with Youth Justice Board National Standards this should be discussed further with a YJS Senior Manager. It is an absolute expectation that accommodation is confirmed at the Final meeting which is usually conducted 10 days prior to release.
- 16.2 Where an eligible or relevant care leaver chooses to live in accommodation which, following an assessment, the local authority deem unsuitable, this will be recorded within the Care/Pathway Plan. It is likely that this will require authorisation from senior management in line with each local authorities planning and oversight processes. The social worker and/or Personal Adviser / leaving care worker will ensure that the young person's decision is shared with

their YJS case manager and that they continue to receive all appropriate support.

17. Eligible and relevant care leavers

- 17.1 Eligible and relevant care leavers aged less than 18 years in contact with youth justice services should receive the same level of advice, support and assistance as all other children in the care of the LA. The social worker and/or Personal Adviser / leaving care worker should ensure that all guidance detailed above is followed in respect of meeting the needs of this group including information sharing, care / pathway planning, reviewing and visiting.

18. Former relevant care leavers

- 18.1 Where a former relevant care leaver is arrested for an offence, the Personal Adviser / leaving care worker should support the young person, in line with the responsibility to advise, assist and befriend.
- 18.2 Where a former relevant care leaver enters custody, the Pathway Planning processes must continue. The young person should be visited on a regular basis and the first visit must take place within **ten working days** of their detention and Personal Advisers / leaving care workers should be given the same status as legal visitors.
- 18.3 Personal Advisers / leaving care workers should liaise with criminal justice services to ensure the young person receives emotional, practical and financial support whilst in custody in accordance with the 'Financial Policy for Young People Leaving Care 2011'.
- 18.4 Personal Advisers / leaving care workers should contribute to the plan for the resettlement of former relevant young people and, it is good practice to undertake a Pathway Plan review at least **one month** prior to the planned release date.

19. Accommodation: former relevant care leavers

- 19.1 Where a former relevant care leaver is remanded or sentenced to custody, there is a need for the YJS case manager and the Personal Advisers / leaving care workers to work closely together, along with other agencies including housing and adult services if appropriate, to ensure that there is :
- Immediate liaison with the existing accommodation provider to inform them of the courts decision and discuss options;
 - Liaison with housing advice/homelessness services to obtain expert advice on the young persons options.
 - If the young person is remanded or serving a short sentence, (which could be a minimum of 2 months) consideration should be given to retaining the existing accommodation pending release.

- If retaining the existing property is not possible or appropriate, all appropriate prompt steps should be taken to give up the accommodation according to the tenancy requirements and to consider arrangements for the collection and storage of the young person's possessions. This will prevent the build up of rent arrears and/or assumed abandonment by the landlord which could lead to an eviction in their absence.
- Where the young person's previous accommodation has been given up or lost, the Personal Adviser/ leaving care worker should seek to identify alternative provision pre-release and details shared within resettlement planning.

20. Planning release: former relevant care leavers

20.1 As soon as possible and no later than 14 days prior to release from custody, the Personal Adviser / leaving care worker, and YJS case manager should work in partnership to ensure a former relevant care leaver knows;

- Who is collecting them;
- Where they will be living;
- The reporting arrangements;
- Sources of support-including how to access this outside of normal working hours;
- Arrangements for education or employment;
- Arrangements for ongoing health needs;
- Arrangements for financial support;
- When they can expect to see their Personal Adviser / leaving care worker; and,
- The roles and responsibilities of the respective agencies.

20.2 It is essential that the young person has clear guidance regarding all arrangements, levels of communication and details of any enforcement requirements. All details should be recorded within the Pathway Plan by the Personal Adviser / leaving care worker and shared with all connected agencies.

21. Community support: former relevant care leavers

21.1 The Personal Adviser / leaving care worker must remain a presence in the young person's life during the period of supervision by the YJS (up to the age of 21 or through consideration within the pathway plan continued support post 21 under the 21+ offer up to the age of 25). Their role is very different and more extensive than that of the supervising YJS, whose involvement will be determined by the length of any order and the behaviour of the young person.

21.2 Young people will require considerable support following release from custody to;

- Readjust to living in open conditions;
- Meet the requirements for reporting and surveillance;

- Sort out finances;
- Settle into accommodation;
- Negotiate education or employment;
- Re-establish relationships with family and friends; and,
- Avoid situations where offending may occur.

22. Joint working: former relevant care leavers

22.1 It is good practice for YJS and Personal Advisers / leaving care workers to have some joint appointments with care leavers in order that information is shared and the young person receives an integrated service.

22.2 The Personal Adviser / leaving care worker and YJS case manager should liaise with each other in relation to significant events including any changes to service delivery or planning. Where possible with the agreement of the young person, the YJS case manager should be invited to attend the Pathway Plan review.

See Appendix overleaf for flowchart of responsibilities required under LASPO Act

Appendix One.

Responsibilities and implications of LASPO Act 2012 for Children placed in Secure Remand or Local Authority accommodation

