



Children First
Northamptonshire



JOINT NORTHAMPTONSHIRE PROTOCOL FOR THE PROVISION OF LOCAL AUTHORITY ACCOMMODATION UNDER PACE 1984 (PACE TRANSFER)

Document version:			
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1.0	13/09/2018	Lorraine Gordon	13/09/2019

1.0 Aims

- 1.1 The aim of this protocol is to safeguard children and young people through avoiding, so far as is practicable, their detention overnight in police custody following charge and the denial of bail.
- 1.2 The protocol is also intended to clarify the duties and responsibilities of agencies in the management of arrangements for the transfer to Local Authority Accommodation (LAA) of children and young people (aged 10 to 17 years) charged and denied police bail.

2.0 Scope

- 2.1 This protocol applies to children and young people (aged 10 to 17 years) who have been charged with offences and refused bail. It does not apply to young people who are charged with breach of bail, breach of the peace or arrested on warrant.
- 2.2 This protocol represents a voluntary agreement between the following organisations:
 - Northamptonshire Police
 - Northamptonshire County Council
 - Northamptonshire Youth Offending Service
- 2.3 There will be instances where a child resident in one Local Authority Area is held in a custody suite situated within another Local Authority area. To avoid confusion the Designated Local Authority in whose area the child resides is legally the **responsible authority**, and in the first instance the custody suite must contact the responsible Authority for where the young person resides. This would be the Emergency Duty Service for out of hours contact.
- 2.4 The protocol will be subject to annual review to ensure it is effective in meeting the key aims set out above.

3.0 Background

- 3.1 Her Majesty's Inspectorate of Probation (HMIP) report, 'Who's Looking Out for the Children' (2011), identified a number of significant safeguarding concerns relating to the experiences of children whilst in police detention. Local Safeguarding Children's Boards in each Local Authority area are responsible for monitoring the recommendations within this report; in Northamptonshire, this responsibility sits with Northamptonshire safeguarding Children Board (NSC). A key concern identified in the report is the overnight detention of children in police cells after police bail is denied, as opposed to transfer to accommodation provided by a Local Authority (LAA).
- 3.2 HMIP reiterated that Section 11 of the Children Act 2004, which "places a duty on key people and bodies to make arrangements to ensure their functions are discharged with regard to the need to safeguard and promote the welfare of children," applies equally to the police as it does to NHS bodies, local authorities and YOT. *Working Together to Safeguard Children* (2015) outlines how agencies should work together to safeguard and promote the welfare of children. This protocol sets out how this will be achieved for children and young people refused bail by the Police. In conclusion, the HMIP report 'Who's Looking Out for Children' stated that: "...the children and young people who are processed through police custody are potentially the most vulnerable of the vulnerable,

and the least able to represent their own best interests, control their behaviour, and communicate their needs.”

4.0 Legal Context

4.1 Police Powers to Deny Bail

4.1.1 When the police decide they have sufficient evidence to charge a child or young person with an offence, they have a number of options, depending on the circumstances.

4.1.2 Under the Bail Act 1976, there is a general presumption that bail will be granted without conditions but there are exceptions that apply to children and young people as well as adults. Section 38 of the Police and Criminal Evidence Act (1984) (PACE) stipulates that, where the police charge a child or young person with an offence, the custody officer must decide whether to grant or deny bail (with or without conditions).

4.1.3 PACE specifies that a person may be refused bail and continue to be detained following charge if the custody officer believes the person would (it should be noted that having no fixed abode is not a reason in itself to deny bail):

- Fail to appear in court
- Commit further offences

or it is necessary:

- For their own protection
- To prevent harm to others
- To prevent interference with justice/investigation, or
- There is doubt about their identity/name & address

Additionally, for a child or young person:

- If the custody officer believes that he ought to be detained in his own interests.

4.1.4 Section 38 PACE (1984) details the requirements that a custody officer must consider before deciding to detain a person after he/she has been charged: Where a custody officer authorises an arrested **child or young person** to be kept in police detention under subsection (1), the custody officer shall **ensure that the arrested child or young person is moved to local authority accommodation unless he/she certifies:**

- (a) that, by reason of circumstances as are specified in the Police Juvenile Detention Certificate it is impracticable for him to do so;

It is acknowledged that whilst thick fog / heavy snow / no available beds within a reasonable distance may meet the impracticability test, **a suspicion that he/she would abscond would not**. The accommodation referred to is not secure accommodation, which is only relevant to (4)(b) below. The Local Authority has discretion as to the type of accommodation provided and Home Office Guidance states that this is not a factor the custody officer is allowed to consider when deciding if the transfer is 'impracticable'.

- (b) in the case of an arrested juvenile who has attained the age of 12 years, that no secure accommodation is available and that keeping him/her in other local authority

accommodation would not be adequate to protect the public from **serious harm** from him/her.

(PACE) 1984 states that '**serious harm for a juvenile** (charged with a violent or sexual offence) shall be construed as **death or serious injury, either physical or psychological**'.

4.1.5 In all cases where denial of bail is being considered, Northamptonshire Police should have regard to the views of the person who has acted as Appropriate Adult. In particular, where that individual is a representative of the Local Authority or Catch22, useful information may be available to assist in the making of that decision.

4.1.6 In order to ensure compliance with PACE, a **Juvenile Detention Certificate will be completed in all cases where a juvenile remains in custody**. This shall be produced to the court before which he/she is first brought and sent to the Children's social Care Team/EDT and YOS via secure email.

4.2 Local Authority Duty to Accommodate Child on Police Request

4.2.1 Section 21 of the Children Act 1989 directs that the Local Authority has a duty to accept the child or young person in response to a request from the police. It is for the Local Authority to determine the type of accommodation provided (be that family or friends, children's home, foster care for example) **unless** the child has attained 12 years **and** it is necessary to protect the public from serious harm. Where the latter apply the Police shall request secure accommodation and ensure that the rationale for that request is clearly communicated to the Local Authority.

4.2.2 When a child or young person is likely to be refused bail, **immediate** contact must be made with the Local Authority MASH Service Manager during office hours, and the Emergency Duty Team (EDT) out of hours when requesting appropriate accommodation under the above. Beginning this process as early as possible is critical to the reduction in delay.

4.2.3 The Custody Officer shall make a comprehensive detention log entry detailing to whom they spoke and the outcome, including the reasons why appropriate accommodation cannot be provided. A similar record of the discussions shall be kept by the Local Authority.

5.0 Arrangements for transfer

5.1 During normal office hours of 9am and 5pm, Monday to Friday, Police shall contact the Court to establish if the young person will appear before 5pm.

5.2 If, within normal office hours (above), the court indicates that this will not be possible, the police should contact the Local Authority MASH directly to request a transfer to local authority accommodation.

5.3 Outside normal office hours (above) all requests for transfer should be made to the relevant Emergency Duty Team (EDT).

5.4 The Police must nevertheless make arrangements to transfer the young person to local authority accommodation in **every** case unless:

- It is impracticable (please note the very high threshold for impracticable, as above).
 - There is a risk to the public of serious harm from that juvenile **and** no secure accommodation is available.
- 5.5 The lack of secure accommodation does not provide a justification for not transferring the young person to local authority accommodation **unless the young person is charged with a violent or sexual offence and** there is evidence of a risk of a further offence resulting in 'death or serious personal injury'. **In such cases, the police** shall consult with the relevant EDT who have indicated that secure accommodation cannot be made available.
- 5.6 Should police make the decision **not** to transfer a young person to local authority accommodation, the reasons under the PACE Code of Practice (16.10) **shall** be clearly recorded on the Police Juvenile Detention Certificate which must be sent by secure email to the local YOT and presented to the court the next morning.
- 5.7 Once a charging decision is made by the police it is acknowledged that in exceptional circumstances transfer to Local Authority accommodation may be impractical and not in the best interests of the child or young person. This decision shall be clearly recorded and referred to the Strategic Manager for Safeguarding & MASH or the on-call Strategic Manager in the absence of that individual or out of hours and the Duty Inspector. Any requests made very near to this time should ensure that the young person is 'transfer ready'.
- 5.8 Where a young person originates from the Northamptonshire area, police will contact the Local Authority or EDT (out of hours) relevant to the child's normal place of residence.
- 5.9 Where a young person originates from a local authority **outside** of Northamptonshire, the police must notify the Local Authority or EDT local to the custody suite. Where a child is from out of area it will be EDT or the Local Authority's responsibility to liaise with the Home LA to seek their permission or instruction.
- 5.10 If the young person requires physical or mental health medical assessment or treatment, whilst detained, the Police will ensure that it is provided, in line with current custody health care arrangements. In order to place the child or young person safely, MASH/EDT should request this information from the relevant healthcare provider and pass that information to PMS.
- 5.11 Where the Local Authority worker is able to identify a suitable placement, these arrangements can be made through normal processes. Where no suitable placement is identified, or the Local Authority worker disagrees with the decision to transfer this **must** be escalated to the relevant Strategic Manager without delay. Please see section 7.0 below for the escalation process.
- 5.1.2 The Local Authority and Northamptonshire Police will work together to ensure the placement provider receives sufficient information about the child or young person to ensure they can meet their needs and deal with any presenting risks.
- 5.13 The responsible Local Authority will arrange transport for the child or young person to the accommodation placement. In Northamptonshire, this is currently provided as part of a contract with Catch22. The placement will receive the young person transported to the establishment and provide overnight accommodation. If there is an unreasonable delay in Catch22 transport, the Police will consider transporting the child a reasonable distance or assisting with the transport.

- 5.14 The Police will complete and provide the placement provider with a copy of the form PER Form (Prisoner Escort Record), to provide relevant information to the placement.
- 5.15 The Local Authority, via the contract with Catch22, will make arrangements, appropriate to the accommodation arrangement put in place, to transport the child or young person to the next available court.
- 5.16 The Local Authority must notify the YOT by email of all cases where the transfer to local authority accommodation did not take place and the rationale given by the police.

6.0 Arrangements during transfer

- 6.1 Where the transfer is anticipated to be for more than one night, additional activity may be necessary to support the placement. Northamptonshire YOS Interventions Team can be approached by PMS during office hours: on Saturday and Sunday mornings, EDT can contact the YOS Duty Manager. Necessary additional activity to support the placement can then be agreed, and may be undertaken in partnership with Catch22.
- 6.2 Catch22 has the responsibility of collecting the child or young person and transporting them to the next available Court sitting in the County. Catch22 staff should remain with the child or young person until they are able to hand over responsibility to the YOS Court Duty Officer in person.
- 6.3 Northamptonshire YOS will provide a Court Duty Officer to attend any Court at which a child or young person is being produced following the withholding of bail, whether that child or young person has been PACE Transferred or not

7.0 Escalation

- 7.1 It is acknowledged that on occasion there might be a disagreement between Local Authority social care staff and Police custody staff on how a child or young person should be dealt with under the protocol. If matters cannot be resolved, both parties should request that matters are escalated for review by senior officers.
- 7.2 The Duty Inspector with responsibility for the custody suite where the child or young person is held shall perform this role for Northamptonshire Police. If necessary, they can notify the Duty Superintendent The Strategic Manager - Safeguarding and MASH or the on-call Strategic Manager (including out of hours) shall provide this function on behalf of the Local Authority. Please see Appendix E for contact arrangements.
- 7.3 Both parties shall ensure an accurate record of any escalation is kept.

8.0 Monitoring and Review

- 8.1 Northamptonshire Police will provide regular data reports on the numbers of children and young people detained by Police; those denied bail and those for whom accommodation is requested from the Local Authority. For the Local Authority, PMS will confirm what provision was put in place, and the outcomes. This data will support the monitoring arrangements put in place by the NSCB to determine the effectiveness of this protocol in safeguarding children and young people.

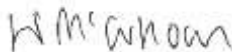
- 8.2 The Local Authority and Police should monitor the numbers of children and young people denied bail and the effectiveness of the protocol and reassure the NSCB of the effectiveness of the services being provided. Where possible, this will include the views of or information from the child or young person concerned. This will be achieved via regular meetings between the three parties to this protocol at which all cases of children and young people either held by the Police for Court or PACE transferred will be reviewed and any necessary practice changes agreed. The frequency of these meetings will be agreed by the identified group. Where necessary, they may occur weekly and should not be less frequent than quarterly . A report will be made to the NSCB at least six-monthly to support their oversight of the protocol's implementation.
- 8.3 This protocol shall be kept under annual review to ensure that it delivers it key aims, in particular reducing to a minimum the numbers of children and young people detained in police custody.

9.0 Authorisation

- 9.1 This protocol has been authorised by each of the participating agencies as set out below.



Detective Chief Inspector Lorraine Gordon, Public Protection
Northamptonshire Police
Date:



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Walter McCulloch, Director for Children First Northamptonshire
Northamptonshire County Council
Date:

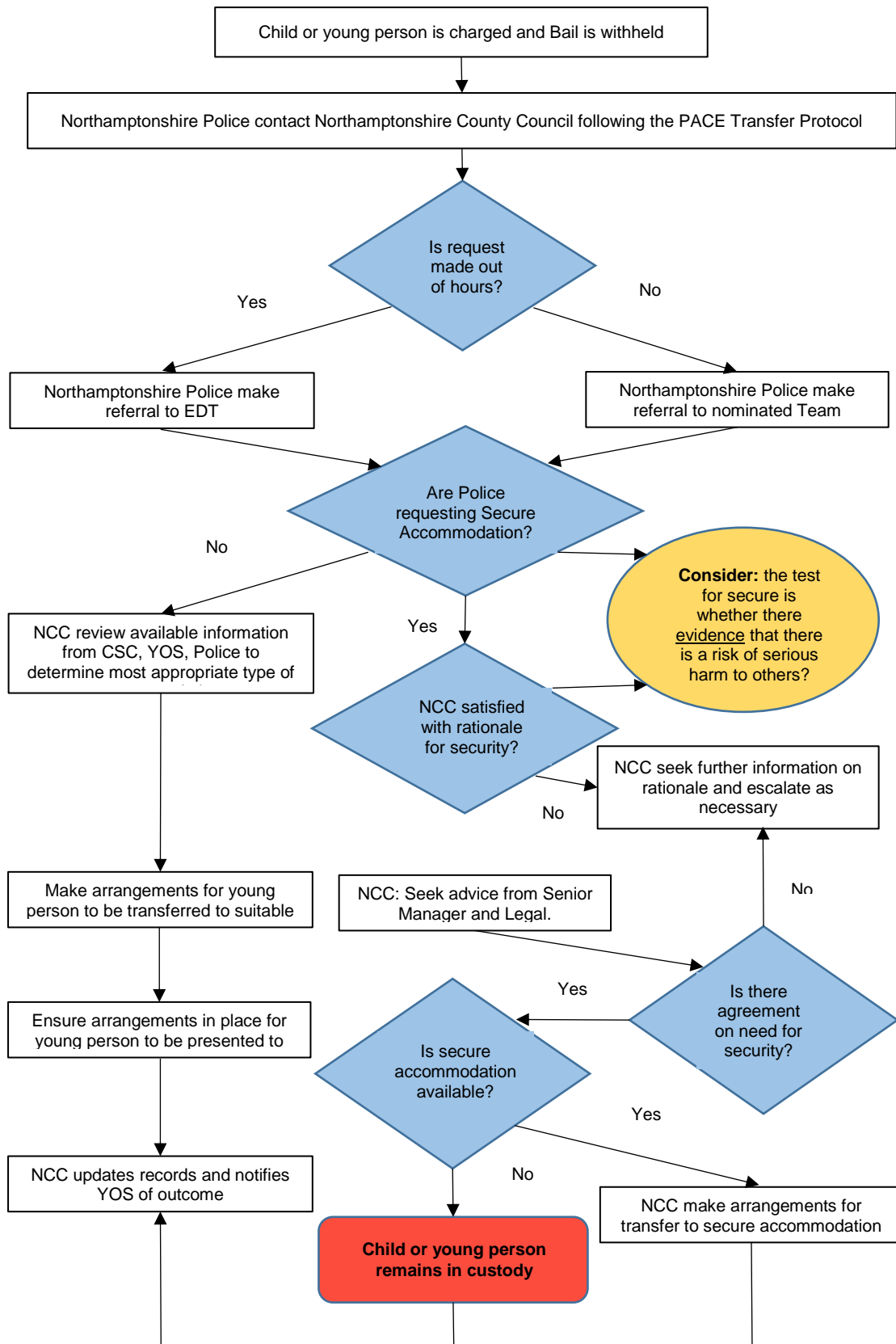


Mike Hodgson, Head of Service
Northamptonshire Youth Offending Service
Date:

Appendices

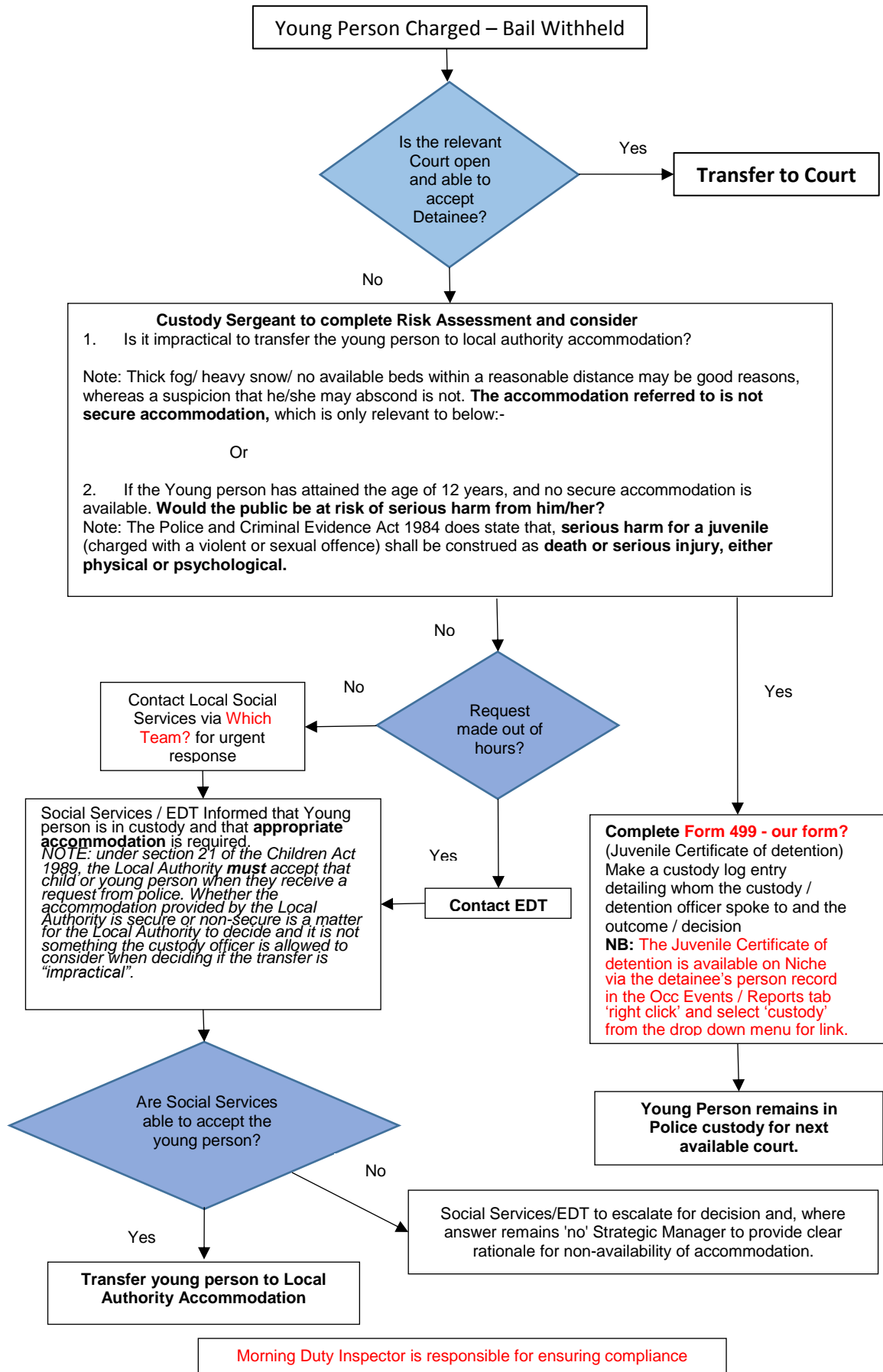
Appendix A	Process for PACE Transfer & Secure Accommodation
Appendix B	Procedure for dealing with Youths after charge
Appendix C	National Appropriate Adult Network: LA Accommodation Guidance
Appendix D	Juvenile Detention Certificate
Appendix E	Contact arrangements required for PACE Transfer

Appendix A - Process for PACE Transfer & Secure Accommodation



Appendix B - Process Map – Procedure For Dealing With Youths After Charge

To Comply with Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LAPSO)



NAAN | Information



Local Authority Accommodation:

A guide to the legal framework for post-charge transfers of children (under 18 years) to local authority accommodation

- Police & Criminal Evidence Act 1984 (PACE)
- Children Act 1989
- Secure Accommodation Regulations 1991
- Criminal Justice and Public Order Act 1994
- Criminal Justice Act 2003
- Criminal Justice and Courts Act 2015

First published: October 2014. This version: February 2018

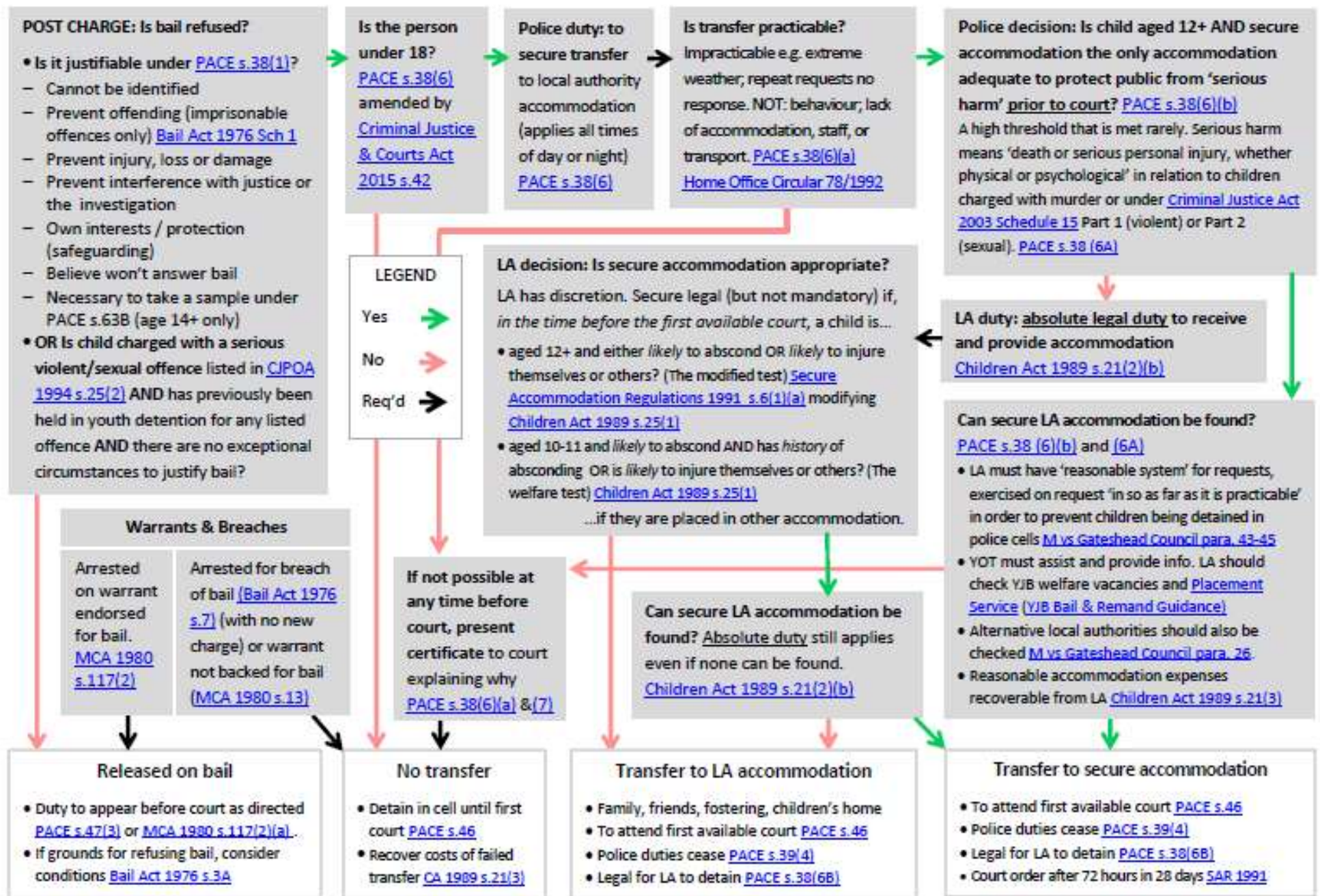
Please note: The Home Office has now published official guidance on this subject

the national appropriate adult network limited • charity no. 1104765 • company no. 04680035 •
www.appropriateadult.org.uk

Appropriate Adults (AA) and Local Authority Accommodation Transfers

AAs have a duty to safeguard the interests of detained children and a role in protecting their rights.

This includes observing whether police and local authorities carry out their legal duties in relation to accommodation transfers, and telling them if they do not. AAs should also seek to identify any potential barriers to bail and inform YOT staff responsible for bail and remand support. This will enable YOT staff to meet their responsibilities as per Youth Justice Board Bail & Remand Case Management Guidance to liaise with police to address concerns through bail information and/or bail supervision & support.



Appendix D

CERTIFICATE OF DETENTION OF AN ARRESTED JUVENILE

(Section 38(6) Police & Criminal Evidence Act 1984) as amended by
Section 24 of the Criminal Justice Act and Public Order Act 1994

I,

Custody No.

Being a custody officer at

hereby certify that at

(Time / Date)

a juvenile given the name

Age

Yrs

of

was charged with an offence of

In accordance with the provision of Section 38(1) of the Police & Criminal Evidence Act 1984 I have authorised their further detention without bail and:

* That by reason of circumstances as are specified below it is impracticable to move them to local authority accommodation

OR

* Having attained the age of 12 years, that no secure accommodation is available and that keeping them in other local authority accommodation would not be adequate to protect the public from serious harm from them.

The specific grounds for not transferring them are as follows : FREETEXT

OR

* They were moved to local authority accommodation, and it shall be lawful for any person acting on behalf of the authority to detain them that they shall be produced to the court.

Signed

Date

NB A copy of this form must accompany each juvenile so transferred

Any decision to require secure accommodation should be cleared by the Duty Inspector

*** Delete those not applicable**

Appendix E - Contact arrangements required for PACE Transfer

MASH

Service Manager on duty: 0300 126 1000

PMS

Duty telephone number: 01604 367000

Team email address: placementmanagementservice@childrenfirstnorthamptonshire.co.uk

Duty Strategic Manager

Office Hours: Strategic Manager for Safeguarding and MASH: 01604 368925 or
07917 067078

In absence, any Strategic Manager in Children First Northamptonshire

Out Of Hours: EDT will have the name and contact details for the duty Strategic Manager

EDT

01604 626938

Duty Inspector

Dial 101, ask for the Control Room, then ask for the Duty Inspector

YOS

Business hours telephone – 01604 602400

Secure email – grp.northantsyot@northamptonshire.cjism.net fao Area Manager – Specialisms

Weekend Duty Manager – EDT have access to YOS Court Outlook Calendar

Catch22

On call telephone number - 07766 426918