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Stoke-on-Trent Safeguarding Children Board

CHILDREN AND YOUNG PEOPLE IN CUSTODY

Section D 18

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1. Introduction

- 1.1 This guidance has been produced by Stoke-on-Trent Safeguarding Children Board to meet the requirement to improve arrangements to safeguard children and young people placed in custodial establishments, as set out in government guidance - LAC 26 (2004) 'Safeguarding and Promoting the Welfare of Children and Young People in Custody'

2. Child Protection Policy Statement

- 2.1 This procedure is based upon well-established inter-agency arrangements for safeguarding the welfare of young people and for protecting them from significant harm. It recognises the inherent vulnerability of young people held in the secure estate and that many will have previously been victims of abuse and exploitation.
- 2.2 Following the commencement of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, councils now have responsibilities towards all young people who have been remanded into local authority or youth detention accommodation. Under s. 104(1) of LASPO, a child who is remanded to youth detention accommodation is to be treated as '**looked-after**' by the local authority designated by the court. Further guidance can be found in Appendix A.
- 2.3 It is the duty of all prison service staff and associates to be alert to the signs and symptoms of abuse of young people including the young people at (**INSERT ESTABLISHMENT NAME**).
- 2.4 From time to time staff will be made aware that a young person has been abused at (**INSERT ESTABLISHMENT NAME**) or the young person may inform staff that they have been abused in the past. Information about alleged abuse may also come to light via other routes – for example, in reports contained on file. In any event, immediate action must be taken to protect the young person and to investigate matters according to this policy. It is the duty of the establishment to develop practice which reflects the principles and guidance contained in The Children Act 1989 and The Children Act 2004.

1 Legal Aid, Sentencing and Punishment of Offenders Act 2012, www.legislation.gov.uk/ukpga/2012/10/contents/enacted

3. Procedure

- 3.1** The vulnerability of young people entering custodial establishments is acknowledged. However, additional arrangements need to be in place where acute concerns arise that have not been dealt with historically.
- 3.2** Staff and associates may become aware that a young person is believed or suspected to have suffered significant harm physically, emotionally, sexually or through neglect either in the secure estate or before they have arrived.
- 3.3** If this is the case, staff must discuss their concerns with the child protection coordinator or head of safeguarding. If they are unavailable, they must make contact with the Duty Governor. The staff member is responsible for recording their concerns on Sections 1, 2 and 3 of the child protection log.
- 3.4** The Child Protection Coordinator / Head of Safeguarding or Duty Governor will make a preliminary assessment of the information, with the assistance of the dedicated social work team (if available) within 12 hours of a concern being raised. They must decide if there are any immediate steps that need to be taken to ensure the protection of the alleged victim from further harm. All information must be appropriately recorded at this and every subsequent stage via a child protection log. The Child Protection Coordinator will also need to know whether the alleged perpetrator of the harm can immediately be identified and what action, without prejudice to any later internal or external investigation, should be taken. The Child Protection Coordinator should be mindful of the fact that there may be child protection considerations in respect of the alleged perpetrator and of other children or young people who may also be at risk. Consultation with the Head of Safeguarding and Duty Governor will also take place and be recorded within the child protection log.
- 3.5** The Child Protection Coordinator / Head of Safeguarding / Duty Governor, in consultation with the dedicated social workers if possible, having regard to the definition of significant harm, will make an informal judgement as to whether or not the harm is deemed to be significant and whether the criteria for a referral under the child protection procedures are met. All alleged incidents will be discussed with the Advice and Referral Team so that information can be disseminated to the LADO and safeguarding team manager for consultation about the action that has been taken to safeguard the young person and what further action might

Under Section 31(9) of the Children Act 1989, as amended by the Adoption and Children Act 2002: **'Harm'** means ill-treatment or the impairment of health or development, including for example impairment suffered from seeing or hearing the ill-treatment of another; **'Development'** means physical, intellectual, emotional, social or behavioural development; **'Health'** means physical or mental health; and **'Ill-treatment'** includes sexual abuse and forms of ill-treatment that are not physical.

need to be taken. They must also forward a copy of the **child protection log** to the Advice and Referral Team (ART) for information purposes.

4. Criteria for Referrals

4.1 The explicit criteria for child protection referrals to the Advice and Referral Team/Police under these procedures will need to be agreed at a local level. Those criteria however are informed by an understanding of significant harm and about the care or treatment that a young person is likely to receive and by establishing distinctions in power and status between victim and perpetrator.

4.2 The scope of the locally agreed criteria might also extend to:

- All disclosures around historical abuse
- All allegations of sexual abuse
- Serious allegation in any other category
- Professional abuse whereby the harm is deemed to be significant

5. Further Action to be Taken

5.1 If inter-agency procedures for safeguarding children and promoting their welfare are instigated a strategy discussion (which may be conducted by telephone) must take place with the locally agreed contacts within 24 hours of receipt of the referral.

5.2 The strategy discussion will establish whether the inter-agency procedures for safeguarding children and promoting their welfare are to be instigated locally, or in another local authority area. The local authority having jurisdiction for the area in which the allegation(s) is believed to have taken place will take prime responsibility for determining this. It will also determine whether or not professional or complex procedures are to be followed. In any event contact will be made with the relevant agency personnel within the young person's home area.

5.3 The strategy discussion will also establish whether a formal strategy meeting is required at **(INSERT ESTABLISHMENT NAME)** within agreed timescales.

(a) Membership of the strategy meeting must include

- Team Managers or above (will undertake the role of chairperson)
- Child Protection Co-ordinator (Prison Service)
- Social worker with child protection responsibility
- Police officers with child protection responsibility
- Any other agency personnel deemed to be appropriate by the chair
- Dedicated social worker at **(INSERT ESTABLISHMENT NAME)**

(b) The strategy meeting will need to establish:

- Immediate measures to safeguard the young person if required

- The need to engage other relevant agency personnel e.g. interpreters/facilitators?
- The need to commence internal disciplinary procedures (if required)
- When to inform the parents
- Whether or not a Production Order is required
- Whether a medical examination under Child Protection Procedures is required and who is the most appropriate person to undertake the examination.
- The need to conduct a video interview to 'Achieving Best Evidence' standards

5.4 In order to progress the investigation neither the alleged victim nor the alleged perpetrator(s) should be moved out of the secure estate unless absolutely necessary for the safety and protection of either young person, or to protect the integrity of the process. (This will be very difficult to achieve, given the transient nature of service user population etc.)

5.5 There may be a range of outcomes following an investigation:

- No further action by Police and Vulnerable Children Division
- Identify the need to address any welfare issues that may have arisen in the course of the enquiries
- In certain circumstances, there may be a need to convene an Initial Child Protection Conference
- If registration does occur, then a Child Protection Plan will be formulated
- If the young person is released into the community during these procedures, the relevant children social care department will be responsible for the continuity of the child protection process
- Criminal investigation by the Police
- Internal prison service investigation

5.6 Monitoring and Reviewing

- The Governor will review the circumstances of all investigations to promote development of best practice in accord with local training programmes
- Aggregate data will be collected in order to inform other appropriate developments e.g. staff training needs, the allocation of resources and further amendments to local procedures
- Data collected may also be used by the local authority as part of a reporting process to the Stoke-on-Trent Safeguarding Children Board (and to relevant government departments).

6. Appendix A –

Looked-after Children in Prison

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1. Looked-after Children in Custody
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1. Looked-after Children in Custody

Law and Policy

LAW

The Children Act 1989
The Legal Aid, Sentencing and Punishment of Offenders Act 2012
Children (Leaving Care) Act 2000

POLICY

Volume 3: Planning Transition to Adulthood for Care Leavers 2010
Care planning regulations 2010
Visits to Former Looked-after Children, S23 ZA Children Act 1989

There are TWO groups of LOOKED-AFTER children in custody;

- **Full Care Order** – Section 31, Children Act 1989
- **Remand LASPO** – Section 21, Children Act 1989 / Legal Aid Sentencing and Punishment of Offenders Act 2012

2. Full Care Order

What does a Care Order mean?

When the Court has granted a Care Order to the young person's home local authority it means that they have parental responsibility for them. The young person's parents also hold parental responsibility. However, the Local Authority can limit their parent's ability to exercise this if they believe it to be in the interests of the child's welfare.

The Local Authority's legal responsibility for the young person is **unchanged** by either a remand or sentence to Youth Detention Accommodation. They should therefore be recorded as the young person's **Next of Kin**.

A Care Order remains in place until the young person reaches **18 years old**.

How often should they be visited?

The young person must be visited by a representative of the local authority, *not a YOS worker*, within **one week** of entering custody [**5 working days**]. Visits should then take place every **6 weeks**. Should the young person remain in custody for over 12 months the visits can reduce to **3 monthly**.

A change in custodial placement within the YOI estate would be termed a placement move and the visiting pattern would revert back to 5 working days, 6 weekly, 3 monthly.

Additional visits can occur on request of the young person, or the establishment or 'if there is any proposal to remove the child from the placement where there are concerns about welfare' [Care Planning Regulations 2010:3:165]

LAC Reviews

An Independent Reviewing Officer (IRO) should convene a Looked-after Children's Review within 20 working days of the young person's admission to custody. A further review should take place within 3 months of the initial review and at 6 monthly intervals thereafter.

However, an Independent Reviewing Officer can exercise their discretion. If a review has been recently convened, which took into consideration the likelihood of an admission to custody, then an initial review can instead be convened within 3 months of the admission to custody.

The IRO must speak to the child in private in advance of the meeting about the matters to be considered, unless the child refuses to do so or the IRO considers it inappropriate, having taken into account the child's age and understanding [2010 regulation 36]. The IRO must request this at the time of the booking the review or arrange a legal visit in advance of the meeting.

Remand and Sentence Planning Meetings

It is good practice for the allocated social worker to attend the remand or sentence planning meetings. "At a minimum s/he **should attend the first meeting and the release preparation meeting**" [Care Planning Regulations 2010:8.49].

It is the responsibility of the Youth Offending Service to invite the social worker to the sentence / remand planning meetings.

Health Assessment

A Looked-after Child Health Assessment should be completed **annually** for a young person subject to a full care order. This is **unchanged** by their remand or sentence to custody.

The young person's social worker should contact Staffordshire and Stoke-on-Trent Partnership (SSOTP) NHS Trust Safeguarding Children Team (LAC) [01785 895630] to arrange a LAC Health assessment. They **cannot** be arranged directly with the healthcare department.

A young person, if considered to be of sufficient understanding, can decline a health assessment. In this instance the assessment report and plan are not required. However, the young person's health needs must still be considered as part of their care and placement plans.

Personal Education Plan [PEP]

A young person subject to a Full Care Order and aged **under 16 years** should be supported by a Personal Education Plan (PEP). Their social worker is responsible for contacting the education provider to arrange a PEP Review meeting. They should send the education manager copies of their respective local authority's PEP paperwork.

Once the plan is in place the management of it as a live document will be managed by a designated member of staff in Learning Services.

The PEP should be reviewed alongside statutory Looked-after Children Review timescales; within **20 working days, 3 months** after the initial review and at **6 monthly** intervals thereafter.

Financial support

Each local authority has its own internal financial procedures which will outline what financial support a looked after child in custody will receive. This varies between approximately £5.00 and £10.00 per week.

Family contact

There may be particular sensitivities around contact between a looked-after young person and their family. In these situations the prison has accommodated requests for private visits to be facilitated in a review room or in the Safeguarding Department.

For some young people there are letterbox arrangements in place for contact with siblings who have been adopted. Social workers will support young people to write letters to their siblings and ensure these reach the letterbox service at their home local authority.

3. Remand LASPO

What does Looked After on Remand mean?

The Legal Aid, Sentencing and Punishment of Offenders Act was implemented on 3rd December 2012 and provided Looked-after status to **all** young people remanded to youth detention accommodation.

Their looked-after status provides them with services and support from the Court Designated Local Authority. Their entitlement to these services continues for the **duration of their remand** or until they reach **18 years old**.

How often should they be visited?

They must be visited by a representative of the local authority, within **one week** of entering custody [**5 working days**]. Visits should then take place every **6 weeks**. Should the young person remain in custody for over 12 months the visits can reduce to **3 monthly**.

A change in custodial placement within the YOI estate would be termed a placement move and the visiting pattern would revert back to the beginning.

Additional visits can occur on request of the young person, or the establishment or 'if there is any proposal to remove the child from the placement where there are concerns about welfare' [Care Planning Regulations 2010:3:165]

LAC reviews

An Independent Reviewing Officer should convene a Looked-after Children's Review within **20 working days** of the young person's admission to custody. A further review should take place within **3 months** of the initial review and at **6 monthly** intervals thereafter.

Health Assessment

A young person looked-after only by virtue of their remand is **not** entitled to a Looked-after Children's Health Assessment. This section of the Care Planning Regulations [2010] was deregulated by amendments made in 2013.

They will instead be supported by a Detention Placement Plan that will take into consideration the educational needs of the young person.

Personal Education Plan [PEP]

A young person looked-after only by virtue of their remand is **not** entitled to a Personal Education Plan. This section of the Care Planning Regulations [2010] was deregulated by amendments made in 2013.

They will instead be supported by a Detention Placement Plan that will take into consideration the health needs of the young person.

Financial support

Each local authority has its own internal financial procedures which will outline what financial support a looked-after child in custody will receive. This varies between approximately £5.00 and £10.00 per week.

Family contact

Some young people remanded to custody could have been looked-after under Section 20, Children Act 1989 prior to their remand. Sensitivity should be exercised in respect of family contact and the young person's views about this.

4. Summary of Entitlements

LAC Status	Visits	LAC Review	Health Assessment	PEP	Financial Support	Family Contact
Full Care Order	✓	✓	✓	✓	✓	✓
	5 working days 6 weekly 3 monthly after 1 year in placement	20 working days – IRO discretion Within 3 months, 6 monthly thereafter	Annual	Up to 16 years old	Discretionary	Discuss with social worker
Remand LASPO	✓	✓	*	*	✓	✓
	5 working days 6 weekly 3 monthly after 1 year in placement	20 working days 3 months 6 monthly thereafter			Discretionary	

5. Care Leavers

- Eligible
- Relevant
- Former Relevant
- Qualifying

Definitions – are they a care leaver?

Information taken from Care Planning Regulations 2010 and Volume 3: Planning Transition to Adulthood 2010

Eligible Young People

'An eligible child' is **still a looked-after child** [currently Full Care Order or Remand LASPO] aged **16 or 17**, who has been looked after for a total of at least **13 weeks** which **began after** s/he reached the age of **14**, and **ends after** s/he reaches the age of **16**.

- *Young person must be looked-after on their 16th birthday, or if they are in custody on their 16th birthday they must have been looked-after [Section 20 / Remand to LA Accommodation] immediately prior to entering custody*

Relevant Young People

'A relevant child' is a young person aged **16 or 17** who was an **eligible child** but is **no longer looked-after**.

- *Young person must be looked-after on their 16th birthday, or if they are in custody on their 16th birthday they must have been looked-after [Section 20 / Remand to LA Accommodation] immediately prior to entering custody*

Former Relevant Young People

A former relevant child is a young person **aged 18 years or over** who was either an **eligible or relevant** child. The local authority has duties in relation to former relevant children until they reach the age of **21**, or **25** in the case of former relevant children who are pursuing a programme of education or training.

Qualifying Young People

A qualifying young person, as defined in **section 24** of the Children Act 1989, is a young person who is 'aged **at least 16 but is under 21**' and '**at any time after reaching the age of 16** while he was still a child [Under 18] was, **but is no longer, looked-after**, accommodated or fostered.

“A young person who was not looked-after for 13 weeks may be a qualifying child. If that young person returns home, perhaps as a result of a decision made at their first statutory review as a looked-after child, then that young person should not be regarded as “qualifying” under Section 24 of the 1989 Act; rather, support to the young person and his family should be provided under section 17 of the 1989 Act”

Services to be provided by the Local Authority

Eligible Young People

Eligible young people **remain looked-after** so continue to be entitled to services detailed in the Children Act 1989 and Care Planning Regulations, including care planning, statutory reviews etc.

In addition to this an eligible young person is entitled to an **assessment** ‘and **‘pathway plan’** which will consider the needs and views of the young person about their future and the support they will need to achieve independence in adulthood. The young person is also entitled to an allocated **personal advisor** by their home local authority.

Relevant Young People

A relevant young person is **no longer a looked-after child**.

Their local authority must now;

- ‘Take reasonable steps to **keep in touch** with the relevant child’
- ‘Prepare and **assessment** of the relevant child’s needs’ and ‘prepare a **pathway plan**’.
- ‘Keep the pathway plan under **regular review**’
- ‘Appoint a **personal advisor**’
- ‘Safeguard and promote the relevant child’s welfare by **maintaining** him, providing him with or maintaining him in **suitable accommodation** and providing **assistance in order to meet his needs in relation to education, training or employment**’.

Former Relevant Young People - Aged 18 years and over

A former relevant young person is **no longer a looked-after child and is now 18** years old and an adult. Their home local authority must now:

- ‘Take reasonable steps to **keep in touch** with the relevant child’
- ‘Prepare and **assessment** of the relevant child’s needs’ and ‘prepare a **pathway plan**’.
- ‘Keep the pathway plan under **regular review**’
- ‘Appoint a **personal advisor**’
- ‘If his welfare requires it, provide **financial assistance** by contributing to the former relevant child’s expenses in living the near place where he is, or will be, employed or seeking employment’

- 'If his welfare and education and training needs require it, provide **financial assistance** to enable him to pursue education or training'
- 'if the former relevant child pursues higher education in accordance with his pathway plan, to pay him the higher education bursary'.

Qualifying young people

A qualifying young person has the least amount of entitlement to services as a care leaver, however, it is acknowledged in government policy that "Some qualifying children will be as vulnerable and have very similar needs to eligible, relevant or former relevant children". This is particularly true of the complexity of needs that young people in custody can present. "The relevant local authority must consider whether the person needs help of a kind the local authority can give;

- Under section 24A - to **advise and befriend** and give **assistance**,
- Under section 24B - to give **financial assistance**"

6. Summary of Care Leavers Entitlements

Leaving care status	Allocated Personal advisor	Pathway Plan	Pathway Plan review	Advise, befriend, assist	Accommodation support	Financial assistance
Eligible	✘	✓	✓	Statutory support from social worker	✓	✓
	Allocated social worker					
Relevant	✓	✓	✓	✓	✓	✓
Former Relevant	✓	✓	✓	✓	✘	Discretionary
Qualifying	✘	✘	✘	Discretionary	✘	Discretionary

7. Former Looked-after Children

Who is a 'Former Looked-after Child'?

A young person, who enters custody **sentenced** and was Section 20 Accommodated immediately prior, is **no longer** considered to be **looked-after**.

A young person who enters custody **sentenced** and was remanded to Local Authority Accommodation immediately prior, is **no longer** considered to be **looked-after**.

At the point of sentencing these young people **could** be Care Leavers. [See above for eligibility criteria].

Only young people who are assessed as having **NO LEAVING CARE entitlement** are considered to be Former Looked-after Children, and as such as supported by:

Visits to Former Looked-after Children, S23 ZA Children Act 1989

Those who will **not** become relevant care-leavers whilst in custody are children who:

- are aged 16 or 17 but have been looked-after for less than 13 weeks since the age of 14 (perhaps because they were remanded into local authority accommodation immediately prior to sentence); or who
- will leave custody before their 16th birthday”

What support are they entitled to?

A young person should be visited by a social worker within **10 working days** of the young person's sentence and consequent admission to custody. The purpose of this visit is to complete a child social work assessment.

“The assessment should be completed within **20 working days** of the child entering custody and should conclude with an analysis that sets out clearly the representatives recommendations to the authority about the advice, assistance and support that the child will need whilst in custody and on release”.

The social worker's manager should share the decision they make in respect of the ongoing support that will be provided by the Local Authority to the young person.

“Where it has been agreed that the child will need ongoing support from the local authority, either whilst they are in custody or following release, or that the child will need to become looked-after again, arrangements should be made to maintain contact with the child whilst they remain in custody. Whilst the child remains in custody, where appropriate, they should be visited in the same way as any other looked-after child.”