

Young People under 17 in Police Custody Procedure

Where a young person in Police custody is charged with an offence there is a general right to unconditional bail. Bail can be refused in circumstances outlined in Section 4(1) of the Bail Act. Where the young person cannot be given bail and is to be held in custody until the next available court the Police and the Local Authority have a duty to consider their release under Section 38(6) of PACE to temporary Local Authority Accommodation.

There is a presumption in favour of release under 38(6) however the young person may be detained in Police custody if:

- They present a serious risk of harm to the public and no secure accommodation is available.
- They have been arrested on a warrant on the basis of previous breaches of bail or absconding from Local Authority accommodation.
- It is impractical to release them because of weather conditions (blizzards, flooding etc.) or similar factor.

There is no Secure Unit within Derbyshire and the Local Authority will not have ready access to secure accommodation at short notice. Where secure accommodation is available, and being requested by the Police, the Out of Hours Social Worker, in conjunction with the On Call Manager, will also need to consider if the threshold for Section 25 CA1989 is met. A Local Authority may only place a child in a secure Children's Home where it appears that any other form of accommodation would be inappropriate because, he or she:

- Is likely to abscond from such other accommodation; or
- Is likely to injure himself or others if kept in any other form of accommodation.

Where secure accommodation is justifiable and can be resourced, the On Call Duty Manager should obtain final authorisation from the Service Director for Safeguarding and Specialist Services or the Deputy Assistant Director for Safeguarding and Specialist Services.

The outcome of the decision and the reasons for it must be recorded on Frameworki.

Should the young person be suitable for release into non secure accommodation the Children's Out of Hours Team should be contacted so that thorough enquires can be made to ascertain the availability of an appropriate placement. The placement is made under section 21(2)(b) of the 1989 Children Act. In practice

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Children's Services may not be able to provide a suitable placement at very short notice in which case the young person would remain in custody. In the event that a suitable placement cannot be found the reasons for this should be recorded on the Frameworki system.

If a placement is available arrangements for transfer should be agreed between the Police and Children's Out of Hours Team. Responsibility for transporting the young person to the designated placement lies with Children's Services although the Police may be able to assist. Organisations such as Quayside Care can provide transport at short notice on a spot purchase basis. Where a provider is used the costs should be met by the Local Authority. If for any reason transport cannot be arranged the young person would remain in custody. The reason why transport cannot be arranged should be recorded on the Frameworki system.

The Children's Out of Hours Team will ensure that the placement is expecting the young person and will be given basic details in advance of the young person's arrival. Responsibility for transferring the young person to court lies with the Local Authority. However, the Youth Offending Service may be able to assist or a private provider can also be called upon.

Contact details:

Children's Rapid Response Team: 08456 058 058
Youth Offending Service Duty Manager: 07990 550952
Quayside Care: 01405 814166 or 07850 125302

PACE 38(6) Bail- Decision Making Flowchart

