



North Yorkshire Safeguarding Children Partnership

# Children and Custodial Settings

Practice Guidance

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# Children and Custodial Settings

## Part 1

### Custodial settings for children

#### Introduction

Settings in which children may be held in custody include Young Offender Institutions (YOIs), Secure Training Centres (STCs) and Secure Children's Homes (SCH) provided by local authorities, adult prison settings or immigration detention centres.

A child in a custodial setting is vulnerable to physical, sexual or emotional abuse. If there are lapses in the care provided for him / her, the child can suffer to such a degree that it constitutes significant harm.

The welfare and safety of children living in custodial settings should be promoted and provided for at a minimum, in line with the [Standards for children in the youth justice system 2019](#)

All commissioners and providers of custodial services for children are responsible for ensuring that children are safeguarded. Commissioner contracts and provider procedures should be comprehensive and unambiguous in setting out the responsibilities and processes for safeguarding and promoting children's welfare. Local Safeguarding Children Partnerships should monitor the welfare of children living in custodial settings. .

The standards for children living in custodial settings include that:

- Children feel valued and respected and their self-esteem is promoted;
- There is openness on the part of the custodial setting to the external world and external scrutiny, including contact with families and the wider community;
- Custodial settings and support staff are trained in all aspects of safeguarding children, are alert to children's vulnerabilities and risks of harm and are knowledgeable about how to implement safeguarding children procedures;
- Children who live in custodial settings are listened to and their views and concerns responded to;
- Children have regular access to a trusted adult from outside the custodial setting e.g. a family member, the child's social worker, independent visitor, children's advocate
- Custodial service staff recognise the importance of ascertaining the wishes and feelings of children and understand how individual children communicate by verbal or non-verbal means;
- There are clear procedures for referring safeguarding concerns about a child to the relevant LA Children and Families Service.

In relation to complaints:

- Complaints procedures should be clear, effective, user friendly and readily accessible to children and young people, including those with disabilities and those for whom English is not their preferred language;
- Procedures should address all expressions of concern, including formal complaints. Systems that do not promote open communication about 'minor' complaints will not be responsive to major ones, and a pattern of 'minor' complaints may indicate more deeply seated problems in management and culture which need to be addressed;
- Records of complaints should be kept by providers of children's services (e.g. there should be a complaints register in every custodial setting which records all representations including complaints, the action taken to address them, and the outcomes);
- Children should be genuinely able to raise concerns and make suggestions for changes and improvements, which are taken seriously.
- Bullying is effectively countered - this is especially important in any institution providing accommodation and care for groups of young people;
- Recruitment and selection procedures are rigorous and create a high threshold of entry to deter abusers;
- There is effective supervision and support, which extends to temporary staff and volunteers;
- The custodial service contractor staff are effectively checked and supervised when on site or in contact with children;
- Clear procedures and support systems are in place for dealing with expressions of concern by custodial service staff about other staff or carers
- Organisations should have a code of conduct instructing staff on their duty to their employer and their professional obligation to raise legitimate concerns about the conduct of colleagues or managers. There should be a guarantee that procedures can be invoked in ways which do not prejudice the 'whistle-blower's' own position and prospects;
- There is respect for diversity and sensitivity to race, culture, religion, gender, sexuality and disability;
- Custodial service staff are alert to the risks of harm to children in the external environment from people prepared to exploit the additional vulnerability of children living away from home.

## Children and Families Service

Children and Families Service has a duty to investigate any concerns about the welfare of children in custodial settings as they would if the child lived in the community or a non-custodial setting. Children living in custodial settings should be assessed as potential children in need under section 17 of the Children Act 1989 and all children remanded to Youth Detention Accommodation automatically acquire the status of a looked after child. Children and Families Service duties and powers extend to children who are in prison.

Children and Families Service should:

- Have agreed local protocols for referral, assessment and the provision of services to children in custody, including child protection procedures;

- Ensure, through North Yorkshire Safeguarding Children Partnership, that arrangements are in place to safeguard the welfare of children in custody (e.g. liaison arrangements for undertaking s47 enquiries, holding strategy meetings / discussions and undertaking serious case reviews) and that the relevant Children and Families Service is represented on the young offender institution's safeguarding committee;
- Have local protocols in place in the event of the death of a child in custody, taking into account national guidelines from the Youth Justice Board, Department for Education and Prisons and Probation Ombudsman.

## Looked After Children and custody

Where a looked after child who is subject to a care order enters a secure establishment, either on sentence or remand, or if any young person is Remanded to Youth Detention Accommodation (and therefore acquires 'looked after' status) the responsible authority has responsibilities as a corporate parent to visit and continue to assess their needs. The responsible authority must make arrangements for:

- regular contact with the looked after child
- continue to ensure that reviews of their care plan take place at the prescribed intervals, and
- facilitate on-going contact with parents and siblings where that is part of the care plan.

These responsibilities will mean that the responsible authority must be closely involved in making plans for resettling the child to their community once they are able to be released from custody. For some children this will involve them returning to foster care or other kind of supported placement.

Where a child under 16 who has previously been accommodated as a result of a third sector agreement under Section 20 of the Children Act is sentenced to custody (as opposed to being Remanded) they do not remain a looked after child. However, the responsible local authority must ensure they appoint a representative to visit all children and young people who have ceased to be accommodated. The representative will be responsible for:

- assessing the child's needs in order to make recommendations about the support they will need whilst detained, and,
- the support necessary on release which could include planning for the child to become looked after again.

Children aged 16+ who were looked after prior to being sentenced (including any period spent Remanded to Youth Detention Accommodation) may well be relevant children as defined by section 23A of the Children Act 1989/248. Their responsible authority must appoint a personal adviser and prepare a pathway plan setting out the support that they will provide to prepare the child for the responsibilities of adulthood. The pathway plan must include information about where the child will live on release and the support they will receive to re-establish themselves in their communities with a positive plan for their futures, to minimise the possibility of their re-offending.

## YOIs, Secure Training Centres and Secure Children's Homes

The Governors of YOIs, STCs and secure children's homes have obligations set out in PSO 4950 - Regimes for Juveniles with respect to child protection. The same measures should apply to children in other custodial settings, such as children in

adult prison settings (e.g. women's establishments which have mother and baby units) or immigration detention centres.

All custodial settings which accommodate children should have internal policies and procedures to safeguard and promote the welfare of children. Accordingly, if information comes to light, from whatever source, that a young person has suffered or is at risk of suffering significant harm, the professional who receives the information or has a concern must report this immediately to the safeguards manager or equivalent nominated safeguarding children adviser, and the Governor.

The Governor must ensure an assessment is undertaken by the safeguards manager or equivalent nominated safeguarding children adviser as soon as possible (but in any case within 12 hours) and overseen by the setting's safeguards committee. Children and Families Service should be consulted for expert advice as required.

A referral to Children and Families Service should be made in line with [NYSCP procedures](#). The Governor or the safeguarding manager/ equivalent nominated safeguarding children adviser should participate in the strategy meeting. If the child is involved with a Youth Offending Team, their supervising officer should also participate.

## Transition into adult services or the community

Good safeguarding practice and resettlement planning requires that all the agencies involved with the young person must work together to provide continuity of services when the young person transfers into and out of the secure estate. This includes ensuring that they have suitable supported accommodation, help with mental health and substance misuse issues and with identifying appropriate education, training and employment.

Transition to adult services for young people in the youth justice system can be challenging due to the different thresholds for children's and adult services and the complexity of need posed by many young people in the youth justice system.

## Part Two

### Children Visiting Custodial Settings

#### Definition of contact

Contact with a child includes correspondence, prisoner's telephones (PinPhones) or social visits. Telephone contact will include any access to office telephones where permission has been granted. It will also include any contact with children who have been invited to visit the prison as part of a group.

When a child visits a custodial setting s/he could be at risk of significant harm through physical, sexual and / or emotional harm from the adult s/he is visiting or from others in the prison establishment.

#### Contact requests and registers

If a prisoner wishes to apply to have child contact, the enquiring prison officer must provide an application form for the prisoner to complete. A separate request must be made for contact with each individual child.

It is possible that a request for contact could be made by a parent or from the child directly. If such a request is received, the prisoner will be informed and asked if they wish to submit a request for contact.

A register providing a record of applications must be held on file. This record will become part of the prisoner's main record and will follow the prisoner on transfer. Each prison establishment should maintain a central record indicating which prisoners are subject to restrictions due to the risk they represent to children, details of prisoners allowed child visits, or other contact and details of prisoners who have been refused child visits or other contact.

#### Parental support for contact

The prison establishment should ask the parent of the child whether they support contact. The Children and Families Service for the area where the child is living, should ascertain the wishes and feelings of the child during a home visit. For the visit to take place the LA children's care must also ascertain that the person who has parental responsibility and is currently caring for the child supports the contact. In cases where the parent does not support contact, the prison establishment should inform the Children and Families Service of the parents' decision.

#### Looked after children

When a prison establishment contacts Children and Families Service as part of the multi-agency assessment below, it may become apparent that a child is looked after by the local authority. In such cases, the local authority's view of the appropriateness of contact must be obtained in writing. The test is always whether contact is in the child's best interest.

## Multi-agency assessment

The prison establishment should undertake a multi-agency risk assessment to determine the risk to which a child may be exposed or the risk that a prisoner presents. The following agencies must be contacted to gather information before an assessment of risk can be made:

- The police in the child's home authority
- The prison establishment police liaison / intelligence officer must be provided with the details of the prisoner and the child/ren (including photographs of the child/ren);
- The police liaison / intelligence officer will then make contact with the police in the child's home authority requesting any information about the risk of harm to the child or further information about the prisoner;
- Children and Families Service in the child's home authority;
- The first approach by the prison establishment should be by letter (with a photograph of the child) to the Director of Children's Services.

Children and Families Service should undertake an assessment and provide a written report with recommendations within three weeks;

- The views of the child should be an important element of the assessment;
- The prison establishment's probation officer should be provided with the details of the prisoner's application for contact;
- Where a prisoner will be subject to licence supervision on release or has been recalled for breach of licence for the current offence. In these cases, the probation officer should contact the relevant home probation area with a request for information and comments concerning the prisoner's application for contact;
- Where the prisoner applying for contact is a young offender and is supervised. In these cases, Children and Families Service in the child's home authority must be contacted;
- Where appropriate, the NSPCC may be contacted for additional information. Some prison establishments who have developed a relationship or a partnership with the NSPCC have negotiated an arrangement where the NSPCC will search their database for information relating to the risk of harm to a child. There is no obligation for the NSPCC to do this check, but it would enhance the assessment if such an arrangement were in place.

## Prison establishment operational manager's decision

When the operational manager with delegated authority is in possession of all the available multi-agency information, an assessment should be made. It is most likely that the operational manager who carries out this function will be the Head of Resettlement or through care who has responsibility for public protection. The operational manager's decision should take into account the follow factors:

- The child's needs, wishes and feelings;
- The capacity of the parent to protect the child from likely harm;
- The prisoner's risk to the public;
- The OASys or ASSET assessment;
- Static risk assessment (Thornton's Risk Matrix 2000);

- Pre-sentence report;
- Previous convictions;
- Custodial behaviour and any other documentation highlighting risk.

The operational manager should decide the level of contact that will be permitted. The level of contact should be proportionate to the risk identified, and the best interests of the child should always be the overriding principal in making these decisions. Contact restrictions should be incremental - one of the following levels of restriction will be applied:

- Level one: full restrictions apply. No contact with any child is permitted and all correspondence and telephone calls will be monitored;
- Level two: contact is only permitted via written correspondence. All correspondence and telephone calls will be monitored;
- Level three: contact is permitted via written correspondence and telephone. All correspondence and telephones calls will be monitored;
- Level four: no restrictions necessary. May have contact via correspondence, telephone, visits and family visit (if available). Routine sampling applies - reading of correspondence, listening to telephone calls, and general observation in visiting area.

## Level of contact decided

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## Monitoring

The level and frequency of monitoring will be proportionate to the risk of harm identified. Monitoring should focus on whether the prisoner is attempting to contact children inappropriately and what references about children are made in general correspondence (i.e. grooming or manipulation of a child or a parent).

Monitoring of prisoners who present a risk of harm to children in the visiting area is required to establish if appropriate contact is taking place between an offender and a child, where child visits have been permitted. Other prisoners who present a risk of harm to children and have not been permitted contact with a child must be supervised in such a way that contact is not possible.

Recorded and electronic information needs to be monitored (e.g. audio cassettes, CD-ROMs and video CDs) because it affords an easy disguise for inappropriate information.

## **Ensuring correct identification of children**

It is necessary to take steps to prevent a child with whom a prisoner may have contact being substituted with another, possibly more vulnerable child. Prison staff monitoring letters and telephone calls and visiting areas need to be vigilant and prevent inappropriate contact where identified. Children entering the establishment for social visits must be identified from photographs by prison staff.

Four passport-style photographs of each child will be required from the parent. Prison staff at the establishment may take the photos where arrangements to do so are in place. The first and second photographs will be sent to the police and Children and Families Service, attached to the written request for information. Staff who are required to identify the child when entering the prison will use the third, and the fourth will be retained on file. Photographs should be returned to the parent if contact is not supported.

Photographs should be updated annually or earlier if there is a significant change in a child's appearance.

## **Reviewing contact decisions**

Where a decision has been made to restrict contact, the decision will be reviewed when there is reason to believe that circumstances have changed. Reviews can be made at any time on the initiative of prison staff or at the request of the prisoner. It is good practice to review decisions every six months.

Any decision to change the level of contact permitted must be based on what is best for the child. The child's welfare is paramount at all times. The decision must take into account the views of the police and probation

Reviews may take the form of a child protection conference. The prison establishment public protection lead is responsible for liaising with Children and Families Service with regard to arranging a child protection conference.

## **Appeals process**

All prison establishments have procedures for prisoners who wish to appeal about a decision not to permit or to restrict contact with a child. If the prisoner wishes to challenge the information held on file, the information provided by other agencies should only be disclosed to the prisoner with the agreement of the other agency.