

**North Yorkshire Safeguarding Children Partnership**

**Children and Custodial Settings**

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**Children & Custodial Settings**

**SCOPE OF THIS CHAPTER**

This chapter is divided into two parts. Part One contains procedures and best practice guidance for safeguarding the welfare of children and young people who 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.

Part Two contains procedures and best practice guidance for safeguarding the welfare of children and young people who are visiting or having contact with adults or other young people who are in prison, focusing particularly on contact with persons identified as posing a risk to children.

This guidance reflects the promotion of welfare and safety of children living in custodial settings line with the [Standards for children in the youth justice system 2019](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780504/Standards_for_children_in_youth_justice_services_2019.doc.pdf), and the National Offender Management Service (NOMS) guidance on ‘**Providing Visits and Services to Visitors (updated 2016)**’, the **Public Protection Manual (Chapter 2, Section 2 – Child Contact Procedures)** and the principles contained in the Children Act 1989.

Clear and timely communications are essential to ensure that inter agency co-operation takes place and all regulations are implemented in the best interests of the child.

**USEFUL GUIDANCE**

**Are you a Young Person with a Family Member in Prison? (Action for Prisoner's Families)**

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**1. 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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780504/Standards_for_children_in_youth_justice_services_2019.doc.pdf)

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

**2. NYCC Children and Families Service**

North Yorkshire County Council (NYCC) Children and Families Service has a duty to investigate any concerns about the welfare of children in custodial settings within this area, 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.

**3. 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 voluntary 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. 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 or their re-offending.

**4. YOIs, Secure Training Centres and Secure Children’s Homes**

The Governors, Directors or Registered Managers 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 establishment's safeguarding 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 [the](https://www.safeguardingchildren.co.uk/professionals/nyscb-procedures/) [Referral Procedure](https://www.proceduresonline.com/northyorkshire/scb/p_referrals.html). The Governor or the safeguarding manager/ equivalent nominated safeguarding children advisor should participate in the strategy meeting. If the child is involved with a Youth Justice Service, their supervising officer should also participate.

**5. 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.

**6. Introduction and Duties of Prison Governors**

Prisons are required by Prison Service Rules to actively encourage prisoners to maintain meaningful family ties while they are in custody. This includes the provision, where applicable, of regular and good quality contact time with children.

Prison Governors also have duties under s.11 Children Act to safeguard and promote the welfare of children, and, in a prison context, this will include balancing a child's right to on-going contact with parents who are held in custody with the need to ensure any such on going contact is safe and in the child's best interests.

Her Majesty's Prison and Probation Service has in place a range of measures to reduce the risks that certain prisoners, especially those convicted of, or charged with, offences against children may present to children whilst in custody.

Prison staff and those working in visitor's centres should receive training, briefing or guidance as appropriate in safeguarding and child protection. This training should be relevant and proportionate to their likely level of contact with children and families, so they can take appropriate action if concerns are raised during a visit. The establishment - or the service provider - should arrange specific safeguarding and child protection training - rather than safeguarding awareness training - for Family Support Workers, Play Supervisors and Visitor Centre staff who supervise activities for children.

**Chapter 2, Working Together to Safeguard Children** sets out the following statutory duties which apply to the Prison Service:

*Para 36.*

*The Prison Service is subject to the section 11 duties set out in chapter 2 of Working Together to Safeguard Children.*

*It also has a responsibility to identify prisoners who are potential or confirmed 'persons posing a risk to children' (PPRC) and through assessment establish whether the PPRC presents a continuing risk to children whilst in prison custody. Where an individual has been identified as a PPRC, the relevant prison establishment:*

* *Should inform the local authority children's social care services of the offender's reception to prison, subsequent transfers, release on temporary licence and of release date and of the release address of the offender;*
* *Should notify the relevant probation service provider of PPRC status. The police should also be notified of the release date and address;*
* *May prevent or restrict a prisoner's contact with children. Decisions on the level of contact, if any, should be based on a multi-agency risk assessment. The assessment should draw on relevant risk information held by police, probation service provider and prison service. The relevant local authority children's social care should contribute to the multi-agency risk assessment by providing a report on the child's best interests. The best interests of the child will be paramount in the decision-making process.*

*A prison is also able to monitor an individual's communication (including letters and telephone calls) to protect children where proportionate and necessary to the risk presented.*

*Governors/Directors of women's prisons which have Mother and Baby Units (MBU) should ensure that:*

* *There is at all times a member of staff allocated to the MBU, who as a minimum, is trained in first aid, whilst within the prison there is always a member of staff on duty who is trained in paediatric first aid (including child/adult resuscitation) who can be called to the MBU if required;*
* *There is a contingency plan/policy in place for child protection, first aid including paediatric first aid and resuscitation, which should include advice for managing such events, and which provides mothers with detailed guidance as to what to do in an emergency;*
* *Each baby has a child care plan setting out how the best interests of the child will be maintained and promoted during the child's residence in the unit*.

See also: **Providing Visits and Services to Visitors (updated 2016)**.

**7. Staying in Touch with a Family Member in Custody**

Children and families can maintain contact with a family member in prison in the following ways:

* By writing a letter (letters may be read by prison staff before being delivered);
* **Email a Prisoner** whereby emails are printed out and delivered to prisoners by a Prison Officer. Each email costs 40p;
* By receiving calls from the prisoner's telephones (this is expensive and there can be long queues to use the telephone);
* By sending voice messages via the **Prison Voicemail Service**; and
* Through social visits.

Prisoners are not allowed access to social networking sites or mobile telephones while in custody (although it should be noted that the illegal use of mobile telephones does occur). Children under 18 must be accompanied by an adult when visiting a prison; however in exceptional circumstances and with prior agreement, Governors may allow young people between the ages of 16 and 18 years to visit on their own. The maximum number of adults allowed at each social visit is 3, but there are no restrictions on the number of children who can visit. The prison should be informed if more than 3 children will be visiting, so that appropriate seating arrangements can be put in place.

Family days and child centred extended visits provide an opportunity for prisoners, their children and partners to come together to enjoy and share family time in a more normalised environment. They are characterised by more relaxed interaction and fewer restrictions than at regular visits. The organisation, availability, style of family days, and prisoner eligibility vary across prisons; details of family days should be contained in information provided when a family member is imprisoned.

Children should be provided with age appropriate information about the visits process so they know what to expect; this could include explaining that they may be searched, that dogs who have been trained to detect drugs will be present; that items like mobile phones cannot be taken into visits and that physical contact (hugging etc.) during visits is likely to be restricted.

**8. Contact Requests**

Prison Rules require prisons to actively encourage prisoners to maintain outside contacts and meaningful family ties. This is integral to the prisoner's Right to Family Life as well as their rehabilitation. Visits are seen as crucial to sustaining relationships with close relatives, partners and friends and help prisoners maintain links with the community.

*Prison Rules 34 and 73 (1) /YOI Rules 9 and 77 allow the Governor discretion to refuse a social visit or determine the conditions under which it takes places. Any such decision must be necessary for one of the purposes specified in the Rules and should be proportionate to the objective being pursued*. These criteria reflect the requirements of Article 8 of the European Convention on Human Rights.

If a prisoner wishes to apply to have a visit from a child they must add the child's details to their visitor list.

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 s/he wishes to submit a request for contact.

A register providing a record of applications for visits 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 any risk they represent to children, details of which prisoners are allowed child visits or other contact and details of prisoners who have been refused child visits or other contact.

**9. Contact with a Prisoner who is Identified as Posing a Risk to Children**

See also: **Public Protection Manual (Chapter 2, Section 2 – Child Contact Procedures)**.

Prisoners who have been convicted of, or charged with, an offence against a child or who have a previous conviction for an offence against a child including offences of violence, sexual offences, neglect and abuse or who present an identified risk of harm (Risk to Children), will only be allowed on-going contact or visits following completion of a comprehensive multi agency risk assessment of the prisoner and a "best interests" assessment for the child in order to decide what, if any, form of contact is appropriate. Contact includes correspondence, telephone calls and social visits.

In most cases the potential risk to children will be determined from the index offence or from previous convictions. However a number of prisoners will be identified as presenting a risk because of their behaviour or actions whilst in custody.

Prisons must identify prisoners pose a risk of harm to children and then complete a multi-agency risk assessment to determine what, if any, contact the prisoner will be allowed with a child(ren). Identified prisoners will be asked if they intend to request child contact; if they do this the multi-agency risk assessment should be commenced.

**The over-riding principle is that the child's welfare is paramount - and that any contact must be in the child's best interest.**

**9.1 Parental Support for Contact**

The prison establishment should ask the parent of the child whether they support contact. Children's Social Care Services for the area where the child is living should be asked to ascertain the wishes and feelings of the child during a home visit. The person who has Parental Responsibility and is currently caring for the child must support any contact.

In cases where the parent does not support contact, the prison establishment should inform Children's Social Care Services of the parent's decision.

**9.2 Looked After Children**

Where the child is Looked After, the local authority's view about the appropriateness of contact must be obtained in writing. The test is always whether contact is in the child's best interest.

Whether or not the local authority shares Parental Responsibility, the views of the parent must also be included and taken into account.

**9.3 The Multi-Agency Risk Assessment**

In order for the prison establishment to undertake the risk assessment to determine what contact, if any, is appropriate, it must contact and gather information from a range of agencies:

1. The police in the child's home authority must be contacted and asked for any information on the child and the prisoner;
2. The prison based probation officer should be provided with the details of the prisoner's application and, where a prisoner will be subject to licence supervision on release or has been recalled for breach of licence for the current offence, the home National Probation Service provider must be contacted and asked for information and comments. In addition if the prisoner is a young offender and is supervised, Children's Social Care Services in the child's home authority must be contacted;
3. Where appropriate, the NSPCC may be contacted for additional information as some prison establishments have developed a partnership with the NSPCC who will search their database for information relating to the risk of harm to a child;
4. A letter to the Head of Children's Social Care Services containing all known details of the prisoner and the child with a photograph. This must be followed up with a prompt phone contact to the Safeguarding Manager in the Children's Social Care Services.

The Children's Services Department will carry out an assessment and provide a written report with recommendations within 3 weeks. This report should include a statement that the identity of the child in the photograph has been confirmed.

The views of the child or young person will be an important element of the assessment.

Subject to their age and level of understanding, the views of the child must be considered as part of the assessment. The Children's Services will ascertain the views of the child during the home visit. They should also identify an Appropriate Adult(s) as good practice who will accompany the child when visiting the prisoner. *(This might be a parent or family member).*

**9.4 The Decision**

The operational manager with delegated authority in the prison establishment, - who has responsibility for Public Protection, will make the decision regarding contact using the available multi agency information. The decision must take into account the following factors:

* The child's needs, wishes and feelings;
* The capacity of the parent to protect the child from significant harm;
* The prisoner's risk to the public;
* Pre-sentence reports;
* Previous convictions;
* Custodial behaviour and any other documentation highlighting risk.

**9.5 Level of Contact Decided**

The operational manager should decide the level of contact that will be permitted. It should be proportionate to any risks identified; the best interests of the child should always be the overriding principle in making these decisions.

Contact restrictions should be incremental and one of the following levels 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 with a named child only via written correspondence. All correspondence and telephone calls may be monitored;
* **Level three**: Contact with a named child only is permitted via written correspondence and telephone. All correspondence and telephone calls may be monitored;
* **Level four**: No restrictions necessary. May have contact with a named child only via correspondence, telephone, visits and family visits. Routine sampling applies – reading of correspondence, listening to telephone calls, general observation in visiting area. This level of contact applies only to those children that the prisoner has permission to have contact with. All other children will be subject to Level One restrictions.

The decision should be communicated and explained to the child and their carer.

**9.6 Monitoring**

The level and frequency of monitoring will be proportionate to the risk 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 to children in the visits 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 to children and have not been permitted contact with a child must be supervised in such a way that contact is not possible.

Recorded e.g. audio cassettes, CDs and VideoCDs, and electronic information, needs to be monitored because it affords an easy disguise for inappropriate information.

**9.7 Correct Identification of Children**

It is necessary to take steps to prevent a child being substituted with another possibly more vulnerable child where visits take place. Prison staff monitoring calls, correspondence and visiting areas need to be vigilant and prevent any inappropriate contact where identified.

Four passport style photographs will be required of each child and these should be updated annually or earlier if there is a significant change in a child's appearance.

**9.8 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 6 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, Probation and local Children's Social Care Services, via the LA Safeguarding Unit.

**9.9 Appeals Process**

All prison establishments have procedures for prisoners who wish to appeal a decision to restrict contact or not to permit any contact at all 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.