



## **Greenwich Safeguarding Children Partnership**

**Children held in custody**

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As part of the annual scrutiny programme, the second area of scrutiny agreed by the Greenwich Safeguarding Children Partnership (GSCP) was for the Independent scrutineer to review the arrangements of children held in custody overnight at police custody suites, whether the Home Office Concordant was being applied appropriately and how 'child friendly' the arrangements were, including the use of Appropriate Adult services. As children crossed borders it was agreed that I would also review custody arrangements in Lewisham, which was agreed with Lewisham council and to share the report and findings with them. It was also agreed that Director of Public Protection and Safety from Lewisham would accompany the visit.

To undertake this work, I visited the custody suites at Plumstead, accompanied by Detective Superintendent Jim Foley Safeguarding lead, SE BCU (Lewisham, Greenwich and Bexley) and met custody staff. I also visited Lewisham custody suite accompanied by Geeta Subramaniam-Mooney, Director of Public Protection and Safety at Lewisham Council. I have been supplied with data from Greenwich of children held in custody overnight, Pan London data and had the opportunity to meet and talk with key staff involved with decision making from the Youth Offending Service, CAMHS provision and management of the out of hours service. I have also latterly been in touch with the Pan London custody group who are looking at issues for children held in custody overnight across London.

I would like to thank all the staff involved for their open, honest appraisal of services and their commitment to making things better for children held in custody. There appeared to be good awareness and evidence of multiagency working to address the needs of children held in custody. Staff across agencies were aware of the Concordant and changes had been put in place as a result, for example the Out of Hours response to these children. However, the provision of accommodation and Appropriate Adult services continues to be an issue.

It should be noted that 'child/ren' is used throughout this report and refers to anyone under the age of 18. Whilst it is recognised that older teenagers in particular might not want to be referred to as a child, the use of this language reflects their legal status and recognises their vulnerability as children. It is intended to emphasise that children who may not appear vulnerable and might look like adults, are still in fact children and should be treated as such.

The Home Office Concordat on Children in Custody, supplemented by the London Protocol for the provision of local authority accommodation for children held in police custody was agreed in May 2019. There is a recommendation that local areas establish [if not already in existence] arrangements for the regular review of cases of children held in custody by senior leaders in the police and children's social care. This piece of work recognises this requirement and makes recommendations about how this could be improved.

#### Concordant - Principals and practice for children held in custody

I have attempted to precis the requirements outlined in the Concordant for those not familiar with it, that relate to the Local authority and custody officers in the police. It is worth a note to reiterate that the police custody staff line management is outside of operational line management within the police to provide independent accountability.

The Police and Criminal Evidence Act 1984 (PACE), CODE C, Revised Code of Practice for the detention, treatment and questioning of persons by Police Officers governs the arrangements for

holding children in police custody. After a child has been charged, there is a presumption that they will be granted bail. Bail is by far the most preferable option for most children charged with an offence. It ensures that they spend as little time as possible in police custody and, in ideal circumstances, will allow the child to return home in advance of their court appearance.

People of all age groups have a right to bail under the Bail Act 1976 and there is a presumption that this right will be granted. The decision to deprive an individual of this right is always a serious step, but especially so in the case of children. In some cases, however, the prospect of releasing a child on bail may raise concerns that it would prevent justice being done, lead to further crimes or even compromise the young person's safety.

There are clear criteria and processes for denying bail, which I will not go into in this paper, as the focus of the review is about those children denied bail and held in custody - all of which should be discussed with the Appropriate Adult through the process and considered by the Local Authority if accommodation is requested. The Local Authority should confirm the reasons for the refusal of bail and understand the reasons why conditional bail is not possible, in order to make an informed decision as to what type of accommodation is suitable.

After a child is charged with an offence and denied bail, custody officers have a duty under section 38(6) of the Police and Criminal Evidence Act 1984 (PACE) to secure the transfer of the arrested child to Local Authority accommodation. Local Authorities have a duty to accommodate the child under section 21 of the Children Act 1989. After a custody officer has decided to deny a child the right to bail and has determined that accommodation is appropriate, whether secure or not, they must contact the Local Authority to request accommodation for the child.

There is often tension about requesting secure accommodation, mainly through the lack of availability of secure accommodation for children nationally. Over the last 25 years the number of secure beds for children has been reduced radically and for those in SE England and London, there is always substantial travel needed to the nearest bed, even if one is available. There is considerable guidance about the request for use of secure and who determines this in the Concordant. The custody officer must believe that the child poses a risk of serious harm to the public between being charged and appearing at court. This is a very high bar for a child to meet. Section 25 of the Children Act 1989 (welfare secure) also has two criteria - one that the child will abscond and that if he is kept in any other description of accommodation they are likely to injure themselves or other people - a similar criteria but the child would have to be in care of the LA with a Care order to also meet this criteria.

The starting position of Local Authority staff receiving this request should be to confirm that secure accommodation is definitely needed. They should try to understand the reasons for the custody officer's belief that the child poses a risk of serious harm to the public between transfer and their court appearance. If not convinced that secure accommodation is required, Local Authority staff should challenge the custody officer's request and discuss potentially suitable alternatives. However, it is ultimately the custody officer's decision as to what type of accommodation they request, and disagreement with police judgement is not a 'lawful' reason for a Local Authority to refuse a transfer request.

Following a request for secure accommodation, the Local Authority must do everything within its power to find secure accommodation for the child in question. If the Local Authority fails to find any secure placements, or reach agreement with the police as to any suitable alternative for the child, then custody officers will have no choice but to retain the child in police custody for the protection of the public

In cases where custody staff are not requesting secure accommodation, it is up to the Local Authority to determine the most appropriate type of accommodation for the child, and it has considerable freedom in the options open to it. Where possible, the most preferable alternative is to return the child to the care of family or friends, although obvious exceptions to this would include instances where the only available options raise safeguarding concerns. Other options include placements with foster families or in a children's home.

One of the circumstances where PACE allows police to retain a child in custody is where a transfer is impracticable. The Concordant is clear on its definition of 'impracticable' – *'should be taken to mean that exceptional circumstances render movement of the child impossible or that the child is due at court in such a short space of time that transfer would deprive them of rest or cause them to miss a court appearance. This must be judged on a case-by-case basis, and a decision of no transfer due to impracticability should be cleared by a duty inspector'*.

Another area that was highly controversial in the Concordant was the proposal that the Local Authority will reimburse the police when they fail to provide accommodation. This is based on the fact that the police are not funded to accommodate under-18 year-olds in custody. It is therefore proposed that local police forces are reimbursed when a transfer to Local Authority care does not take place, for whatever reason. Historically this has never happened, even though this reimbursement is a long-standing statutory obligation for Local Authorities. Section 21(3) of the Children Act 1989 states that:

*Where a child has been detained under section 38 of the Police and Criminal Evidence Act 1984, and he is not being provided with accommodation by a Local Authority any reasonable expenses of accommodating him shall be recoverable from the Local Authority "in whose area he is ordinarily resident".*

The level of expense for overnight detention must be determined by the police force and should be based upon the costs of cell use, staffing, healthcare and any other provision required for a detainee. Mechanisms for the recovery of these costs must be determined at a local level and will vary depending upon any existing reimbursement arrangements between police forces and Local Authorities. There is a proposal that from April 2020 that the Met will start charging authorities but I understand that it has been agreed that it will be a nominal charge of £30, a considerable difference from the actual cost of a secure bed!

## Data

There is a requirement that the Met supply data on the numbers of children held in custody. This is provided on a Pan London basis to all Safeguarding partnerships and Local Authorities by the Met police. From the last return in October 2019 Pan London of children held in custody – there were 113 children in total, but only 9 were found accommodation. There were 2 RBG children and 3 Lewisham children though there may have been more as there were 30 children with no recorded originating

authority. Non-secure and secure accommodation were asked for in 29 and 31 cases respectively, with a further 2 requests for secure accommodation being turned down as the location was deemed too far to take the child before their court appearance. It was decided that there was insufficient time to transfer 22 children – this decision was mostly made by police but made jointly in 8 cases. The longest time a child spent in custody in this category was just under 12 hours. 14 children were wanted on warrant or in breach of court bail so no transfer requests were made, and one request was not made when the child was charged with murder (see chart below)

I understand that the low number of children who were found accommodation is replicated across the 2019 data, however I have not been supplied with this information . Of the children found accommodation, only 3 boroughs managed to do this - Camden, Hackney and Newham on one occasion. Of the 9 children who were placed into the care of the local authority; the majority were placed back with family (5) and the rest in foster care or care homes (4).

This reflects the increasing complexity of those children held in custody, greater risk associated with gangs and knife crime and the challenges of finding accommodation, both secure and emergency accommodation, for this cohort of children.

| <b>Final Outcome</b>                              | <b>Oct 2019</b> |
|---|-----------------|
| Placed  | 9               |
| Non-secure accommodation unavailable              | 29              |
| Secure accommodation unavailable                  | 31              |
| S38 PACE not applicable (warrant, breach of bail) | 14              |
| Insufficient time to transfer                     | 22              |
| LA could not be contacted/did not reply           | 5               |
| LA not contacted by police                        | 1               |
| Location too far                                  | 2               |
| <b>TOTAL</b>                                      | <b>113</b>      |

The reality expressed by Custody staff is that requests for accommodation are always made to the Local Authority but there is very little expectation that accommodation will be found. However, the Local Authority and out of hours service in Greenwich has responded to the Concordant and provided additional training on expectations and duties and is clear about its responsibility to these children, however finding any accommodation is rare. There are only 14 secure units across the country and waiting lists for places. The ALDCS (Association of London Directors of Children's Services) group is considering joint commissioning with Support from DfE to provide a secure unit for London children.

#### Findings from review - Custody suites

I visited both Lewisham and Plumstead custody suites. Lewisham police station is the largest in Europe and therefore has a large custody suite, holding people in custody from a wide area across South East London. The Plumstead custody suite is based at Plumstead police station but plans are in place to move the function to a new suite being re-provisioned at Bexley and will cover both Greenwich and Bexley boroughs. This will provide a modern custody suite and more provision.

Both Plumstead and Lewisham had a central suite of cells close to the custody officer's desks, which they would use for their more vulnerable clients and children held in custody, so extra surveillance and monitoring can be provided. On my visit to Lewisham there was evidence of awareness of children's vulnerability and how staff responded to this. One child who had ADHD /autism was being held in one of the cells, but he was being managed on a 1:1 basis with the cell door open and a member of custody staff sitting with him.

Children had access to a range of meals including vegetarian choices but no sandwiches. Both suites had started to offer biscuits (very posh packets of Lotus biscuits which you usually get at Costa with your coffee!) and squash. One custody officer in Lewisham did comment about this being seen an 'incentive' which showed some of the difference in cultures / behaviours of staff in the suites. This was an isolated response and generally I found staff had empathy and understanding about impact of ACEs for the children held. Staff had had training on these areas but maybe additional joint training with other services such as YOS and children services would give staff from both services a greater awareness of and understanding of each other's roles and the constraints of this.

Prayer mats and items required for religious observance were available. Lewisham suite said they had little relevant reading material for children and if they did, it was often destroyed. Plumstead had more books which were often donated by staff. I asked the question of staff how they felt they could make custody more child centred. There were some suggestions about providing activities for the child such as puzzles, games or books. I understand in Exeter custody suites they provide puzzles and colouring books, and jigsaw puzzles. However it is recognised that any items intended for a child would need to be given to the Custody Sergeant to carry out a risk assessment to decide whether it is safe and appropriate for the child to have them (removal of staples etc), as items must not be given directly to a child.

The cells were very basic and standard, with a small bunk with a thin mattress and pillow – as were blankets, all standard issue. I understand the issue of destruction of these items as well as ability to sanitise and keep clean is important, but it felt stark and clinical – it is a cell.

### Delays in children being held

One of the areas that I addressed in this review was all delays to children being held and were there changes that could be made that meant that children did not have delays before being charged or interviewed because of arrangements, particularly those children brought in late at night, such as availability of Appropriate Adults. Clearly Custody suites are also governed by a requirement by PACE to provide an 8-hour uninterrupted 'sleep' period, although it can be interrupted to prevent unnecessary time in custody, but Custody Sergeants (CS) did say if they could move things quickly and release a child they did so.

The general feedback was that there were two areas that caused delays in the process.

The main area of delay in children being charged and interviewed was what one officer described as a 'severe lack of Appropriate Adult services' out of hours – in the evenings (in reality after 5.00) and at weekends. I understand the contract for Lewisham and Greenwich Appropriate Adult service is for 24-hour cover but in practice this is not happening. Clearly the custody suites cover more than the two boroughs I am focusing on, so this is further compounded with the fact that custody staff need to deal with more than one boroughs AA service or EDT. As part of this work I explored how this could be improved. The contract for Lewisham and Greenwich is being reviewed and it was agreed that availability out of hours would be considered as a part of this. I also explored whether using technology with a virtual link for some of the AA role could be considered. The general view was that a physical presence was ideal to offer physical reassurance, but there may be some areas that could be dealt with using virtual methods – a phone call or using the virtual court video conferencing links already in place.

Clearly if children have not been seen by an AA, officers cannot proceed with charging or interviewing. This is particularly an issue at Plumstead as the BCU model has meant officers are not based at the Plumstead building unless they specifically have to attend custody to either book a prisoner in after arrest (AO- Arresting officer), or travel to from other stations in order to interview and deal with a case (OIC- officer in the case). With the decrease in numbers of officers and travelling time this can have an impact on timescales.

The impact of this is that children could be held for some time before being charged or interviewed.

### Additional provision in custody suites - Health provision

In the Lewisham custody suite there was a nurse who provided physical health care to both adults and children. There was not a similar resource available in Plumstead. However, there will be health provision for all clients held in custody in the new custody suite being developed in Bexley. My understanding is that this health resource is not provided through the CCGs but is commissioned by the Met police. At the time of visiting the suites I was not aware of this arrangement and therefore did not explore links with community health services, including information sharing, liaison and provision, access to prescriptions and client's drugs, as well as monitoring and supervision of these staff beyond their own company. However, staff spoke very positively about the dedicated nurse provision and support this provided to people held in custody, as well as their own staff's understanding of health conditions. However, custody staff spoke very disparagingly about FMO/E (Forensic medical officers/ examiners) about their availability and understanding of issues, with particular examples about their poor understanding of children with special needs or mental health difficulties.

There appeared a good understanding of staff (especially in Plumstead) about children with special needs, mental health difficulties, ADHD, autism etc and likely behaviour associated with these conditions. I understood that the 'All Ages CAMHS LD' team had provided training to custody staff in Plumstead on this subject. The Liaison and Diversion post which was staffed by an occupational therapist is currently vacant due to promotion, funding has been secured for a further year from NHS England and recruitment can now take place. This post provides a key link between custody, mental health service, Youth Offending Service and Children's Social Care working to ensure that children and families are offered services at the earliest point of entry into the Criminal Justice System. This professional who until recently was mainly based at Plumstead custody suite. Custody staff spoke very highly of her interventions and support to children held in custody with mental health difficulties. The funding in Lewisham had been used in a different way within the YOS and therefore there were no dedicated professionals providing support to children in custody at the Lewisham suite, however there is discussion about using a voluntary organisation to provide a youth worker into this environment, an initiative which would be widely supported by custody staff. I understand St Giles Trust youth workers are now liaising with and on call- working with Lewisham and Plumstead custody suites but not based in the suites full time.

### Conclusion and Recommendations

Generally, there was a good understanding of the Concordant and the requirements by staff in the LA, children's services as well as YOS. Clearly the custody staff were fully aware and implement this on a daily basis but have very real frustrations that it is not working in practice as very few children get accommodated outside of custody because of the lack of suitable provision. This is a national problem.

Staff in all agencies are increasingly aware of the needs of this cohort of children and I was impressed by the commitment and understanding of the staff I met, particularly the Custody Inspectors. There is certainly a willingness to change and improve services to this group of children held in custody and I therefore make these recommendations as a way of supporting these staff to make improvements to these arrangements.

- 1) Pan London accommodation - I have explored with the Pan London custody group, who are charged with trying to address this issue about lack of provision, about whether we could think more radically. The Plumstead suite closing might give us an opportunity to see whether we could explore with Met police and MOPAC about the possibility of using this as a cross borough provision for children across SE or South London. Could we pull together a proposal for funding and agreement for Met police /MOPAC/ Local Authorities and Health? It would mean we could provide a suite that was more child friendly, had additional health and social care/ youth worker staff to support these children and rather than each borough having to provide support / Appropriate Adult services we could focus this resource all in one place and join budgets. I have discussed this with Paul Wilkinson who is a commissioner in Croydon, who has been charged with looking at provision across London to address this problem. He and the Pan London group are very supportive and keen to look at this as a possibility.

While commissioning the Bexley model could consideration be made to making at least one cell more child friendly?



- 2) Magazines /puzzles and food – could consideration be given to a small budget to provide some puzzle books /magazines that could be regularly replaced. Consideration to be given to provide a small selection of sandwiches and a wider choice of basic biscuits/ crisps.
- 3) Explore and review the commissioned health provision and its connectedness to community health provision- GPs etc
- 4) Increase of Appropriate Adults for out of hours services – evening and weekends. We have a new contract being drawn up, can increase access to this out of hours be confirmed in the new service commission(and monitor that it is ) and consider whether provision on a virtual basis could support wider availability for some areas.
- 5) Consider joint training for all staff on needs of children in custody including children with mental health and SEND, especially for FMO including ACEs and trauma informed approaches.

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