



Supporting Vulnerable Young People

JOINT NORTHUMBRIA PROTOCOL

FOR THE

PROVISION OF APPROPRIATE ADULT SERVICES AND LOCAL AUTHORITY ACCOMMODATION



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1. Background

- 1.1 Her Majesty's Inspectorate of Probation (HMIP) report 'Who's Looking Out for the Children' (2011) identified a number of significant safeguarding concerns relating to the experiences of children whilst in police detention. Local Safeguarding Children Boards were responsible for overseeing the recommendations within this report. A key concern identified in the report is the overnight detention of children in police cells after police bail is denied, as opposed to transfer to accommodation provided by a Local Authority (LA).
- 1.2 HMIP reiterated that Section 11 of the Children Act 2004, which "places a duty on key people and bodies to make arrangements to ensure their functions are discharged with regard to the need to safeguard and promote the welfare of children," applies equally to the police as it does to NHS bodies, local authorities and YOS. *Working together to Safeguard Children* (2013) outlined how agencies should work together to safeguard and promote the welfare of children.
- 1.3 The Youth Justice Board for England and Wales, revised National Standards 2019 requires that YOT Management Boards should implement clear youth justice specific local policies and protocols covering:

Provision of persons to act as appropriate adults to safeguard the interests of children detained or questioned by police officers³ in line with the National Appropriate Adult Network's National Standards

Provision for children who may be interviewed under the Police and Criminal Evidence Act 1984 (PACE) while remanded or sentenced in youth detention.

2. Aims

- 2.1 The aim of this protocol is to safeguard children and young people through avoiding, so far as is practicable, their detention overnight in police custody following charge and the denial of bail.
- 2.2 The protocol clarifies the duties and responsibilities of agencies in the management of arrangements for the transfer to Local Authority Accommodation (LAA) of children and young people (aged 10 to 17 years) charged and denied police bail.
- 2.3 The protocol clarifies the duties and responsibilities of agencies in relation to the provision of Appropriate Adult services for children and young people (aged 10 to 17 years) when they are detained at a Police Station in the Northumbria Police force area.
- 2.4 This document aims to provide guidance and understanding to agencies on their geographical remit when a child or young person (aged 10 to 17 years) is detained at a Police Station in the Northumbria Police force area

3. Scope

- 3.1 This protocol applies to the provision and services of Appropriate Adults provided by the local authority when a child or young person (aged 10 to 17 years) is detained within a custody suite. This includes the provision for the child or young person to be given their rights and entitlements and also the provision of an appropriate adult for PACE interviews.
- 3.2 This protocol applies to children and young people (aged 10 to 17 years) who have been charged with offences and refused bail. It does not apply to young people who are charged with breach of bail, breach of the peace or arrested on warrant.

3.3 This protocol represents a voluntary agreement between the following organisations:

- Northumbria Police
- Gateshead Council
- Newcastle City Council
- Northumberland County Council
- North Tyneside Council
- South Tyneside Council
- Sunderland City Council

3.4 There will be instances where a child, resident in one Local Authority Area, is held in a custody suite situated within another Local Authority Area. The Local Authority in whose area the child resides is the **responsible authority** but, in the first instance, the custody suite where the child or young person is being held will contact the Local Authority in that locality.

3.5 The protocol will be subject to bi-annual review to ensure it is effective in meeting the key aims set out above.

4. Local Authority Appropriate Adult Provision

4.1 Where a child or young people (aged 10 to 17 years) is detained at a Police Station the relevant Local authority responsible for the child or young person will attend *as soon as practicable*, to ensure that the child or young person is given their rights and entitlements. The relevant Local Authority will also be responsible for the provision of an Appropriate Adult when the child or young person is interviewed. Rights and entitlements and a PACE interview may take place at different times and the Local Authority representative may need to attend the Police Station on more than one occasion. It is vital that the child or young person is given their rights and entitlements as soon as practicable and delays should be avoided wherever possible.

Police will make *all* efforts to secure the attendance of a parent/carer or appropriate family member prior to contacting the relevant Local Authority. These contacts attempts will be listed on the child or young person's custody record for audit purposes.

All six (6) local authorities included in this protocol have agreed to the 24 hour provision of appropriate adult services for a child or young person (aged 10 to 17 years) who is detained at a Police Station within the Northumbria Police force area.

4.2 Police and Criminal Evidence Act 1984 (PACE)

Section 57 PACE states:

(2) Where a child or young person is in police detention, such steps as are practicable shall be taken to ascertain the identity of a person responsible for his/her welfare

(3) If it is practicable to ascertain the identity of a person responsible for the welfare of the child or young person, that person shall be informed, unless it is not practicable to do so –

(a) that the child or young person has been arrested

(b) why he/she has been arrested

(c) where he/she is being detained

(4) Where information falls to be given under sections (3) above, it shall be given as soon as it is practicable to do so.

(5) For the purposes of this section the persons who may be responsible for the welfare of a child or young person are –

(a) his/her parent or guardian

(b) Any other person who has for the time being assumed responsibility for his/her welfare

(6) If it is practicable to give a person responsible for the welfare of the child or young person the information required by subsection (3) above, that person shall be given it as soon as it is practicable to do so.

(7) If it appears that at the time of his arrest a supervision order, as defined in Section 11 of the Children and Young Persons Act 1969, is in force in respect of him/her, the person responsible for his/her supervision shall also be informed as described in subsection (3) above as soon as it is reasonable practicable to do so.

(8) The reference to a parent or guardian in subsection (5) above is –

(a) in the case of a child or young person in the care of a local authority, a reference to that authority: and

(b) in the case of a child or young person in the care of a voluntary organisation in which parental rights and duties with respect to him are vested by virtue of a resolution under section 64(1) of the Child Care Act 1980, a reference to that organisation

(9) The rights conferred on a child or young person by subsections (2) to (8) above are in addition to his rights under Section 56 of the Police and Criminal Evidence Act 1984.

(10) The reference in subsection (2) above to a child or young person who is in police detention includes a reference to a child or young person who has been detained under the terrorism provisions: and in subsection (3) above “arrest” includes such detention

(11) In subsection (10) above “the terrorism provisions” has the meaning assigned to it by Section 65 of the Police and Criminal Evidence Act 1984.

5. Police Powers to Deny Bail

5.1 When the police decide they have sufficient evidence to charge a child or young person with an offence, they have a number of options (depending on the circumstances) and any final decision will be undertaken in consultation with the relevant Youth Offending Service (YOS).

5.2 Under the Bail Act 1976, there is a general presumption that bail will be granted without conditions however there are exceptions. Section 38 of the Police and Criminal Evidence Act (1984) (PACE) stipulates that, where the police charge a child or young person with an offence, the custody officer must decide whether to grant or deny bail (with or without conditions).

5.3 PACE specifies that a person may be refused bail and continue to be detained following charge if the custody officer believes the person would

- Fail to appear in court
- Commit further offences

Or it is necessary

- For their own protection
- To prevent harm to others
- To prevent interference with justice/investigation
- Because there is a doubt about their identity/name and address.

Additionally, for a child or young person:

- If the custody officer believes that they ought to be detained at their own interests.

5.4 Section 38 PACE (1984) details the requirements that a custody officer must consider before deciding to detain a person after they have been charged: Where a Custody officer authorises a child or young person to be kept in police detention under subsection (1), the custody officer shall ensure that the arrested child or young person is moved to local authority accommodation unless they certify that:

(a) by reason of circumstances as are specified in the certificate (PACE 5 Certificate of Youth Detention –

Appendix C), it is impracticable for them to do so; It is acknowledged that whilst thick fog/heavy snow/ no available beds within a reasonable distance may meet the impracticability test, a suspicion that he/she would abscond would not. The accommodation referred to is not secure accommodation, which is only relevant to (6) (b) below. The Local Authority has discretion as to the type of accommodation provided and Home Office Guidance states this is not a factor the custody officer is allowed to consider when deciding if the transfer is 'impracticable.'

(b) in the case of an arrested juvenile who has attained the age of 12 years, that no secure accommodation is available and that keeping them in other local authority accommodation would not be adequate to protect the public from serious harm from them.

(PACE) 1984 states that '**serious harm for a juvenile (charged with violent or sexual offence) shall be constructed as death or serious injury, either physical or psychological**'.

5.5 In order to ensure compliance with PACE, a PACE 5 will be completed in all cases where a juvenile remains in custody. This will be produced to the court before which they first appear.

Local Authority Duty to Accommodate Child on Police Request

5.6 Section 21 of the 1989 Children's Act directs that the Local Authority has a duty to accept the child or young person in response to a request from the police. It is for the Local Authority to determine the type of accommodation provided (family or friends, children's home, foster care) unless the child has attained 12 years and it is necessary to protect the public from serious harm. Where the latter applies the Police will request secure accommodation and ensure that the rationale for that request is clearly communicated to the Local Authority.

5.7 When a child or young person is refused bail, immediate contact must be made with the Local Authority Children's Social Care Service during office hours and the Social Services Emergency Duty Team (EDT) out of hours when requesting appropriate accommodation under the above.

5.8 The custody officer will make a comprehensive detention log entry detailing whom they spoke and the outcome including any reasons as to why appropriate accommodation cannot be provided. A similar record of the discussions will be kept by the Local Authority.

5.9 In the event that the Custody Officer or any other member of staff from Northumbria Police needs to escalate a matter, they will request to speak to the on duty Local Authority Manager (from within the local

authority who has responsibility for the young person). He/she will assist wherever possible in resolving matters at management level. On Duty Local Authority managers are available at all times and work "on call", making contact with them accessible to Police. It is accepted that this will be exceptional cases only.

6. Arrangements for transfer

6.1 During normal office hours of 9am and 5pm, Monday to Friday, police will contact the court to establish if the young person will appear before 5pm.

6.2 If, within normal office hours (above), the court indicates that this will not be possible; the police should contact The Local Authority Social Care Team directly to request a transfer to local authority accommodation.

6.3 Outside normal office hours (above) all requests for transfers should be made to the relevant emergency duty team (EDT).

6.4 The Police must nevertheless make arrangements to transfer the young person to local authority accommodation in every case unless:

- It is impracticable
- There is a risk to the public of serious harm from that juvenile and no secure accommodation is available.

6.5 The lack of secure accommodation does not provide a justification for not transferring the young person to local authority accommodation unless the young person is charged with a violent or sexual offence and there is evidence of a risk of a further offence resulting in 'death or serious personal injury.' In such cases, the police will consult with the relevant EDT who have indicated that secure accommodation cannot be made available.

6.6 Should the police make the decision not to transfer a young person to local authority accommodation the reasons under the PACE Code of Practice (16.10) will be clearly recorded on the form PACE 5 which must be sent (via secure email) to the local YOS and presented to the court the next morning.

6.7 Where a young person originates from a local authority outside of Northumbria, the young person's home authority is responsible for placing the child. In such cases, the local authority or EDT local to the custody suite will be contacted by the police so that they can obtain agreement to the transfer from the young person's home authority.

6.8 If the young person requires medical assessment or treatment whilst detained, the police will ensure that it is provided, in line with the current custody health care arrangements.

6.9 The local Authority and Northumbria Police will arrange transport for the child or young person to the accommodation placement. The placement will receive the young person transported to the establishment and provide overnight accommodation.

6.10 The Police will complete and provide the placement provider with a copy of the PER Form (Prisoner Escort Record), to provide relevant information to the placement.

6.11 The Local Authority will make arrangements, appropriate to the accommodation arrangement put in place, to transport the child or young person to the next available court.

6.12 EDT must notify the YOS by email of all cases where the transfer to local authority accommodation did not take place and rationale for such decision.

7. Geographical remits and responsibilities for Local Authorities

7.1 Local Authorities will have geographical responsibility/remit for police stations within their local authority area. This will include the provision of Appropriate Adult Services and the management of any arrangements for the transfer to Local Authority Accommodation (LAA) of children and young people (aged 10 to 17 years) charged and denied police bail.

The remits are as follows:

Middle Engine Lane Custody Suite	<i>North Tyneside and Northumberland</i>
Forth Banks Custody Suite	<i>Gateshead and Newcastle</i>
Southwick Custody Suite	<i>Sunderland and South Tyneside</i>

8. Monitoring and Review

8.1 This protocol will be kept under regular review to ensure that it delivers it's key aims, in particular, reducing to a minimum the numbers of children and young people detained in police custody.

8.2 Local Children Safeguarding Boards; the Local Criminal Justice Board and the Police and Crime Commissioner all play a key role in monitoring the numbers of children and young people denied bail and the effectiveness of this protocol in meeting their needs.

8.3 Northumbria Police will provide quarterly data reports on the numbers of children and young people detained by police; those denied bail and those for whom accommodation is requested from the Local Authority. This data will support the monitoring arrangements put in place by the LSCBs to determine the effectiveness of this protocol in safeguarding children and young people.

8.4 There will be a quarterly scrutiny panel, chaired by the Custody Chief Inspector from Northumbria Police. This will scrutinise juvenile detentions from across the Northumbria Force area and aim to evaluate best practice and identify areas of improvement. Representatives from Northumbria Police and the Local Authorities shall attend. All exceptional reporting will go outside of this scrutiny panel.

8.5 This protocol has been authorised by each of the participating agencies as set out below.

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Signed on behalf of Northumbria Police

Date

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Signed on behalf of Gateshead Council

Date

.....

Signed on behalf of Newcastle City Council

Date

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Signed on behalf of North Tyneside Council

Date

.....

Signed on behalf of Northumberland County Council

Date

.....

Signed on behalf of North Tyneside Council

Date

.....

Signed on behalf of South Tyneside Council

Date

.....

Signed on behalf of Sunderland City Council

Date

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Appendix A - Local Authority Process for Secure Accommodation

Young person is charged and bail is withheld

Northumbria Police: Contact the relevant local authority to request accommodation following the Youth Process after charge

Is the request made out of hours?

NO

Northumbria Police: Make referral to contact team for urgent response

YES

Northumbria Police: Contact EDT for assistance

Are the police requesting LA secure accommodation?

NO

Consider: Is there evidence that the young person presents a risk of serious harm?

EDT: Review available information, YOS, Case Management System (CMS), recent arrest and determine whether secure or non-secure accommodation is appropriate

YES

EDT: Are you satisfied with the Police rationale for secure accommodation?

NO

EDT: To request that Northumbria Police justify their decision making rationale (to be recorded clearly on CMS) EDT staff should enter into discussions with Northumbria Police

Do EDT feel secure accommodation is required

YES

EDT: Liaise with on call senior manager and seek legal advice as necessary

YES

YES

EDT: Advice to be sought from on call Senior Manager and legal advisor

Is there any secure accommodation available for the young person?

EDT: Make arrangements for the young person to be transferred to appropriate non secure accommodation

YES

EDT: Make arrangements for the young person to be transported to appropriate accommodation

NO

Can agreement on the need for secure accommodation be reached?

EDT: Make necessary arrangements to secure next court attendance

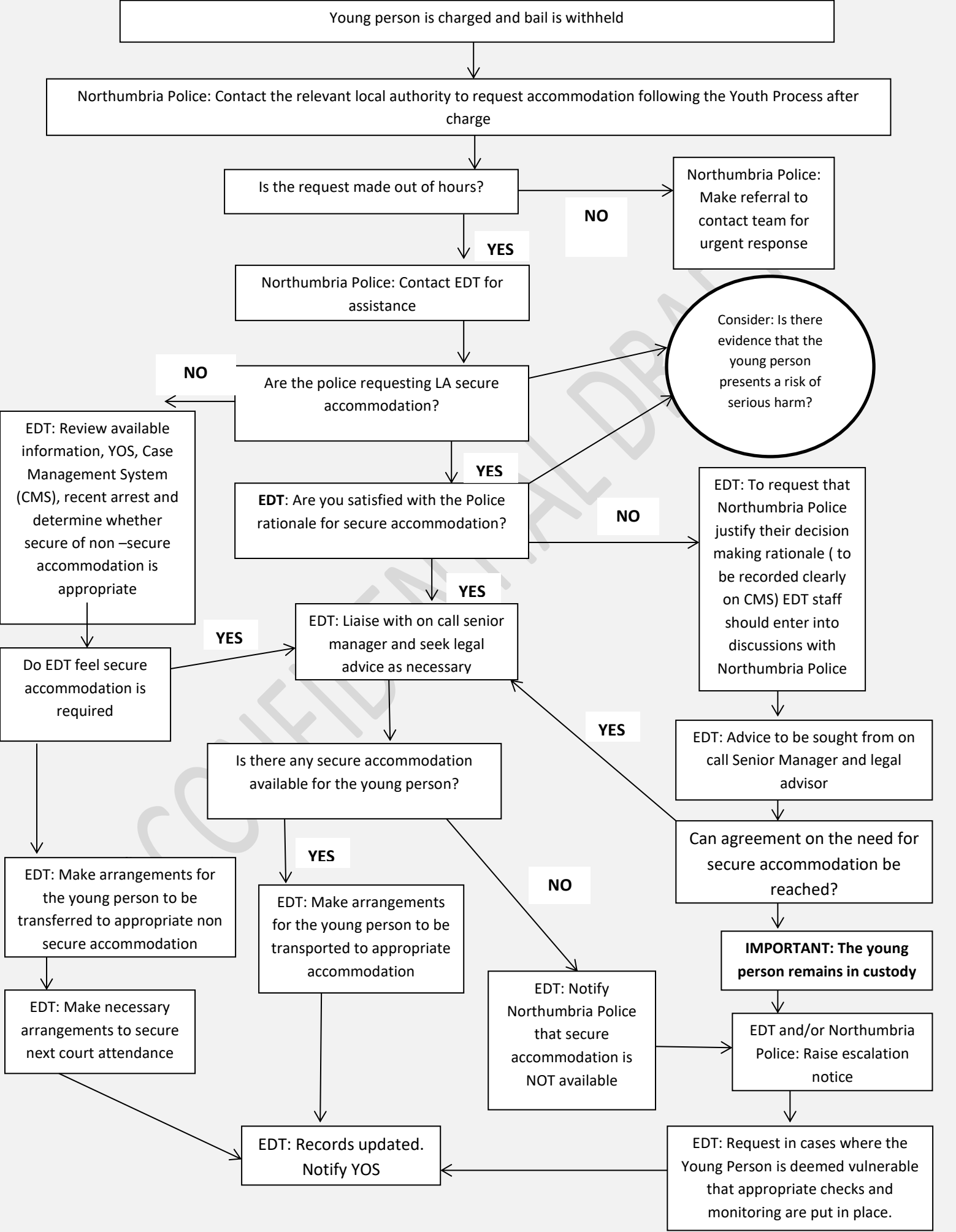
IMPORTANT: The young person remains in custody

EDT: Notify Northumbria Police that secure accommodation is NOT available

EDT and/or Northumbria Police: Raise escalation notice

EDT: Records updated. Notify YOS

EDT: Request in cases where the Young Person is deemed vulnerable that appropriate checks and monitoring are put in place.



Appendix B – Local Authority Contact Details

Local Authority – Youth Offending Teams – NORTH

North Tyneside:

Riverside Children’s Centre, Minton Lane, North Shields, Ne29 6DQ Telephone: 01916438605

Northumberland:

Northumbria House, Manor Walks shopping centre, Cramlington, NE23 6UR Telephone: 01670 622938

Local Authority – Youth Offending Team – CENTRAL

Newcastle:

West Avenue, Gosforth, Newcastle upon Tyne, NE3 Telephone: 01912853714

Gateshead:

Gateshead Council, Civic Centre, Regent Street, Gateshead, NE8 1HH Telephone: 01914334573

Local Authority – Youth Offending Team – SOUTH

Sunderland:

145 High Street West, Sunderland, SR1 1UW Telephone: 01915614000

South Tyneside:

Laygate Centre, 38 Laygate Place, South Shields, NE33 5RT : 0191 4272850

Appendix C **Aims and Objectives of Appropriate Adults**

Aims

1. To provide a 7 day week ‘Appropriate Adult’ service for juveniles detained within the Northumbria Police Force Area as laid down in the Codes of Practice (S.60 (1) (a) and S.66 PACE Act) and the Police and Criminal Evidence Act 1984 and any present or future relevant legislation as required.
2. To seek to improve communication between all agencies involved in the detention and welfare of juveniles in the criminal justice system
3. To ensure that there is a clear understanding of the safeguarding responsibilities of the Appropriate Adult and the custody officer, whilst a juvenile is in custody

Objectives

1. To endeavour to provide a trained workforce in the absence of a parent, carer or guardian, to act as the ‘Appropriate Adult’ for juveniles in police custody.
2. To develop and manage a professional Appropriate Adult service for Northumbria Police serving the local community, police, Children and Adult Services and Youth Justice Service, in fulfilling the statutory requirements of the Police and Criminal Evidence Act 1984 (PACE) and the Crime and Disorder Act 1998.
3. To provide suitable training for those who undertake the role of Appropriate Adult with regular support from the relevant line manager. A mandatory training programme will be provided to those who undertake the role of Appropriate Adult including initial training with a refresher at least every two years.
4. To assist and support young people with communication whilst in police custody and ensure they are afforded their entitlements, provisions and representations as necessary, whilst remaining neutral to any investigation.

5. To ensure that the detainee understands their rights and entitlements as outline in the PACE Act (1984) Codes of Practice, to facilitate communication and witness that the investigation processes are carried out fairly.

6. To maintain a system for recording accurate information and relevant data regarding those detainees who have required an Appropriate Adult. This information will be shared with relevant agencies in line with existing policies regarding the access to records, as afforded within the Data Protection Act and The Human Rights Act

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