



PROTOCOL

Between

Swindon Youth Offending Team

&

Swindon Children's Social Care
(Children, Families and Community Health)

Swindon Youth Offending Team & Swindon Children's Social Care (Children, Families and Community Health) PROTOCOL

Terminology - within this protocol, all references to YOT refer to Swindon Youth Offending Team. References to CSC refer to Children's Social Care. (Swindon Children's Services).

1. Legislative Framework

1.1 Relevant legislation:

Police and Criminal Evidence Act 1984 (PACE); Crime and Disorder Act 1998; Youth Justice and Criminal Evidence Act 2003; Anti-Social Behaviour Act 2003; Criminal Justice and Immigration Act 2008; Data protection Act 1998; Children and Young People Act 1933 & 2008 Children Act 1989; Children Act 2004; Care Leavers Act 2000; Homelessness Act 2002; Education Act 2002; Regulations and guidance for Looked After Children 2011; The Visits to Former Looked After Children in Detention (England) Regulations 2010. Human Rights Act 1998, Care Planning, Placement and case review (England) regulations 2010 (and subsequent miscellaneous amendments 2013), Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), and Working Together 2015.

1.2 Relevant plans and targets are recorded in:

- Annual Youth Justice (RYS) Plan.
- Looked After Children and Corporate Parent Strategy 2014-16 (SBC).
- South West Child Protection procedures (SWCPP).
- Joint protocol for young people between 16-21 in housing need.
- Assessing Parental Capacity to Change (DfE 2014).
- Children, Families and Community Health Business Plan 16-19.

1.3 The objective of the protocol is to:

- Set up transparent and consistent lines of communication between the CSC and YOT.
- Ensure minimum and unnecessary duplication.
- Foster good working relationships and communication.
- Ensure clarity of role and purpose in our mutual responsibilities toward young people who offend, are CLA, subject to Child Protection Plans, Children in Need or at risk of offending.
- Clarity re escalation of concerns (see relevant escalation policies).

2. Information Sharing

2.1 The Crime and Disorder Act, section 115, provides a statutory authority to consider the disclosure of personal information whenever it is **necessary or expedient** to the successful implementation of the Act. (to prevent offending or re-offending)

2.2 The first Data Protection Principle requires data controllers to ensure they have a legitimate basis for their processing of personal data. Legitimacy is established where the controller has: the consent of the data subject, or where the processing is 'necessary' for the exercise of a legal or public function. Swindon Youth Offending Team is registered as a data controller and the responsible Officer is the Service Manager RYS. The responsible officer for CSC is Jo Ash.

2.3 The sharing of information regarding young people between YOT and CSC will ensure:

- That contact is maintained and that there is adequate monitoring of those young people involved in the criminal justice system.
- Assessment of their offending behaviour and the risk(s) they potentially pose to the public and subsequent administration of justice.
- Assessment of risks to themselves, staff and carers and the identification of safeguarding and protective factors.
- Child protection procedures are followed.
- Plan for the child is holistic and intervention considers plans formulated in YOT or CSC. All is considered in the compilation of plans.

3. Referrals For Services For Young People

3.1 The YOT accepts referrals from many agencies. Action on those referrals in terms of assessment and the provision of resources will be determined by the aims, objectives and priorities outlined in the YOT Annual Justice Plan.

3.2 If the YOT believes the child is a Child In Need, including In Need of Protection, then they will make a referral to Family Contact Point (FCP / MASH), who will progress the referral to the Assessment and Child Protection Team for consideration of a Statutory assessment or Strategy meeting to be undertaken.

3.3 CSC teams: (FCP / MASH, will gather information and make a multi-agency informed decision, as to the best intervention, at the appropriate threshold for a child / young person. They may consider referring it for an assessment undertaken in ACP, or signpost to Early Help or universal provisions or for no action to be undertaken but advice to be given to the child / family / referrer. If a decision is made that a child is to be referred to ACP, then children will be assessed as to:

- Young people aged 16 or 17 who have been Looked After (in care) for at least 13 weeks since the age of 14, and who are still Looked After (in care).
- Young people aged 16 or 17 who have been Looked After (in care) for at least 13 weeks since the age of 14, and have been Looked After at some time while 16 or 17, and who have left care.
- Young people aged 16 or 17 who would have been relevant as above except for the fact that on their 16th birthday they were detained through the criminal justice system.
- Young people aged 16 or 17 who have returned home, but the return has broken down.
- Asylum seeking young people aged 16/17 deemed to be Unaccompanied Minors under the Children Act 1989.
- Young people due for release from the secure estate (custody) requiring an assessment of (S17) need for post-release support.
- Young people attaining LAC status by virtue of a remand episode under LASPO (RLAA or RYDA).

4. Assessment, Planning and Reviews

4.1 The YOT use the ASSET assessment tool in line with National Standards issued by the Youth Justice Board for England & Wales. CSC teams use the Assessment Framework for Children in Need and their Families.

4.2 The YOT contributes to the multi-agency assessment of children and young people In Need currently known to the YOT (including at an Early Intervention stage of engagement in services). CSC and YOT should share information and work together to avoid duplication and disruption to service users, joint assessments should be undertaken where possible, in particular with young perpetrators of sexual abuse.(Under the AIM protocols)

4.3 Wherever possible, and in the young person's best interests, the reviews of Children Looked After (in care) are combined with reviews of young people subject to community orders, on Remand or in Custody. Responsibility for reviews of Children Looked After (in care) rests with CSC. The child's allocated social worker will ensure the YOT is invited and contributes to those reviews where appropriate (YOT should always attend in cases where the young person has been assessed as High Risk to self or others and /or high vulnerability

4.4 Where a CLA (child in care) is made subject of a Referral Order, the allocated social worker (CSC or representative) should, where possible, attend the R.O. Panel meetings and encourage parental / carer attendance and ensure restorative justice principles are applied where appropriate.

4.5 Children Looked After (in care), subject to Detention & Training Orders are also subject to separate reviews as part of their DTO Through Care and Planning. Responsibility for co-ordinating DTO planning reviews rests with the YOT who will invite allocated social workers to the reviews and ask them to contribute to them in person or in writing.

4.6 Where young people deemed Children in Need or subject to Child Protection plans are at risk of or are already offending, the YOT should be invited to attend a review of the child's plan / Child Protection Conference or core group.

4.7 Where joint work between the YOT and CSC is being undertaken, if either agency wishes to close the case, they should only do so after consultation and agreement with the other. The reason for the decision must be recorded.

5. Appropriate Adult

5.1 When a Young Person (under the age of 18) is to be interviewed at the police station and a person, who would otherwise be considered as an Appropriate Adult (AA) under the Police and Criminal Evidence Act 1984, is unavailable or is unwilling to attend, or their attendance would be inappropriate (e.g. they are the victim) the YOT, in most circumstances provides volunteer AAs. This service is provided between the hours of 0900 and 2200 each day (excluding public holidays). Outside of these hours cover is provided by the EDS. However, save for in extraordinary circumstances, Parents or Guardians should be encouraged and expected to act as appropriate adults. This includes young people accommodated under S20 & S31 or 38 (shared parental responsibility) of the Children's Act 1989. A solicitor should be present (it is an AA's right to ask for one), even if the young person declines. However, if despite encouragement, the young person refuses a solicitor then the interview may still go ahead.

5.2 The YOT AA scheme is co-ordinated through the YOT AA Co-ordinator, who is responsible for their training. The Co-ordinator will supply EDS and the police with a regular rota of volunteers. The YOT will provide relevant training to CSC colleagues following requests to the Co-ordinator.

5.3 Where a young person is Looked After (in care) or an unaccompanied asylum seeker, CSC will provide an appropriate adult. Requests for assistance from the YOT should only be made in exceptional circumstances through the Operational Manager (YOT) or RYS Service Manager.

5.4 Appropriate Adult Volunteers, Foster carers, Residential Child care staff etc should not be used for:

- Serious violent or sexual offences
- As an AA for witnesses
- To review evidence
- To transport young people from police custody
- AA interviews beyond 9pm

6. Youth Conditional Cautions

6.1 Youth Conditional Caution Programmes are to be considered voluntary and last for a maximum of up to 6 months. A parent or guardian must be

present for young people aged 10 to 16. Youth Conditional Cautions and other programmes involving Looked After Children (in care), and those receiving Section 17 services, should be jointly planned and agreed between the YOT and allocated CSC Social Workers.

7. Court work and attendance in court

7.1 A YOT Officer will be present at all Swindon Youth Court sessions including Remand (emergency) courts on Saturdays and on Bank Holidays. The YOT will liaise directly (in person or by telephone) with EDS on Bank Holidays and Saturdays where necessary.

7.2 CSC responsibilities for child/young person who is Looked After (in care are):

- Ensure the child / young person is transported to and from Court when necessary.
- CSC allocated social worker to accompany child/young person to Court - If the allocated social worker is unable to do this, a well briefed designated other worker will accompany the child/young person to Court.
- Encourage and support parents to attend Court and offer guidance re future court dates or bail requirements. (YOT and CSC).

7.3 Where there is a likelihood of a Remand to Local Authority Accommodation, and the child is already allocated to a CSC social worker the YOT will inform the appropriate Service Manager, Social Work team and the Fostering team immediately (or EDS). Where a young person does not have an allocated Social Worker the YOT will provide the appropriate background information as required to FCP/MASH who will then ensure the child is referred to ACP who will provide an allocated social worker and who will inform the Fostering Team to enable them to identify a suitable placement. See Appendix 'B' for examples of relevant forms. The YOT will liaise with and support the CSC staff after the order is made but the responsibility for providing appropriate transport remains with CSC.

7.4 The YOT will act as a link between the Court and CSC to minimise waiting time for CSC staff. The YOT will inform the Duty Officer of the relevant team about any Looked After (in care) young person who is appearing in Court. The YOT Officer will also inform the Clerk and Crown Prosecution Service so that these cases can be expedited.

7.5 Notification of the next Court appearance will be received on appearance in Court. The allocated CSC social workers should ensure young people and their carers are aware of next appearances and that the young people attend.

8. Young People Bailed or Remanded by the Courts

8.1 The YOT Bail Support and Supervision Scheme will provide structured support for young people at high risk of offending in order to prevent re-offending. Compliance with the scheme is a condition of bail if it is deemed

appropriate and necessary by the Court. This complies with Youth Justice Board National Standards.

8.2 Where young people who have been 'Bailed to reside where directed by the Local Authority' or 'Remanded to Local Authority Accommodation (RLAA)', a representative from CSC should be available to receive the young person from Court. The YOT and CSC social worker will undertake a joint assessment of care/ support. Any young person age 17 or under who are RLAA, under LASPO automatically attain the status of Looked After. Responsibility for the completion of LAC forms rests with the CSC with the YOT giving assistance with relevant information.

8.3 There is a clear duty of care laid out in legislation and guidance for the YOT and CSC for the provision of accommodation (as per the Southwark Judgement). As the YOT does not have accommodation of its own, responsibility for the search and provision of accommodation rests with CSC.

8.4 Young people under the age of 17 'bailed to reside as directed' are not 'Looked After'. The local authority does not have parental responsibility for these young people. It is the responsibility of CSC to find appropriate accommodation and transport the young person to the accommodation. The YOT will assist and support this process (e.g. YOT police officers may help with an intelligence check of a proposed address).

8.5 Young people subject to a Remand to Youth detention Accommodation (RYDA) under LASPO automatically attain the status of 'Looked After'. Responsibility for accessing secure accommodation and transport lies with the YOT, via the Youth Justice Board and contracted transport providers.

8.6 Young people over the age of 17 and 'Bailed to reside' will be jointly assessed by the YOT and CSC to ascertain the accommodation needs and interventions to address their offending. The Yot will initiate the assessment (see 8.4 above).

9. Local Authority responsibility towards former looked after children in custody.

9.1 S15 of CYPA 2008 inserts a new section 23ZA into the 1989 Act. This imposes a duty on the LA to ensure that a child who was LAC, but now ceases to be so as a result of certain circumstances is visited by a representative of the authority to provide appropriate IAG. The visits to former Looked After Children in Detention (England) Regulations 2010 provide that these duties will apply to children and young people who have ceased to be LAC as a result of being detained in a YOI, STC or SCH and who are not 'Relevant' children.

9.2 CSC have a duty to appoint a 'Designated Manager' who will allocate, receive reports and decide on resources'. They will:

- Appoint a representative to visit the young person (must be a qualified CSC SW)
- Inform IRO if relevant

- Within 5 working days inform secure establishment
- Visit the young person within 10 working days and consider the 'options for the child on release'.
- Complete an assessment based on CIN within 20 working days of entering custody (copy to young person, parent, governor/ Director, YOT, other LA and LA 'Designated manager').
- Designated Manager agree recommendations no later than 28 days before potential release date and inform all concerned as above.
- Visit young person in line with LAC Standards.

YOT have a duty to:

- Notify LA of any episodes of a sentence to custody or a RYDA or RLAA
- Plan for release (custodial sentence or RYDA). The young person must know details no later than 14 days prior to release.

9.3 Where accountable staff in CSC and YOT are unable to reach agreement about how an individual child is to be supported (including the above duty where the Designated Manager may reject the representatives assessment and recommendations for continuing support for a previously looked after child) they will refer to the SBC Escalation policy.

9.4 Young people leaving custody will have a plan that may include licence conditions. The YOT, secure establishment and CSC should work together to agree licence conditions, accommodation, risk management and care plan in advance of release on licence.

10. Bail involving curfews or the Curfew requirement in the YRO

10.1 The Court has the power to impose Curfews of young people as a sentence, or in specified and regulated occasions as a condition of bail (with or without the use of an electronic tag. The YOT has the responsibility to assess the suitability of any Curfew. Where a young person is Looked After, this assessment will be undertaken in consultation with and agreement of, the designated social worker and carer/ accommodation provider.

10.2 Please see Appendix A.

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**Reviewed and
updated May 2016**

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APPENDIX A

Curfews with electronic monitoring can be used for the most serious cases and it also provides courts with a further option for dealing with those who repeatedly offend on bail or while remanded to local authority accommodation (specific criteria apply and must be met (s.98 & 99 LASPO)). Electronic monitoring of bail conditions would normally be used in conjunction with Bail Supervision Schemes (BSS) or Intensive Supervision and Surveillance Programmes (ISSPs). It is expected that it will initially be used mainly to enforce a home curfew as a condition of bail/ RLAA but it may be used alongside other types of conditions as technology develops.

Remands to both Local Authority Accommodation and / or Youth detention Accommodation confers 'Looked After' status on a young person. A 'Looked After' young person, as defined in section 22(1)(b) of the Children Act 1989, is a young person who is provided with accommodation by the local authority in the exercise of any of its functions (Local Authority Social Services Act 1970, and Children Act 1989).

Young people RLAA placed with parents or other family members are also 'Looked After' children. This protocol will outline how such placements will be assessed and monitored by the YOT and CSC.

THE ROLE OF THE YOT

The YOT is responsible for assessing (with reference to specific criteria) whether a particular child or young person is suitable for electronic monitoring. The Court may not impose electronic monitoring of conditions of remand or bail or to local authority accommodation for a 12-17 year old unless the YOT is of the opinion that such a condition will be suitable in the person's case.

Tagging may be used in conjunction with Bail Supervision & Support programmes, as appropriate. YOT responsibilities for the provision of these services remain unchanged, aside from the addition of electronic monitoring to the range of elements available for inclusion in proposed packages.

The YOT is responsible for informing schools of young people subject to electronic monitoring of conditions of bail or remand to local authority accommodation.

The YOT will inform the contractor if they know of any risk posed by the young person or a member of the household, which may indicate that caution should be used to ensure safety of staff visiting the household.

The YOT assessment of suitability

This will include an assessment of the following:

- The characteristics of the young person /offender;

- The existence of a suitable address for electronic monitoring – including consideration about members of the household, and the likely effect on them;
- The effect on the child's education.

Assessment will take place within the context of the usual bail assessment using bail ASSET. In particular, the YOT will ensure that the nature of tagging is explained to the young person.

Remands to LA Accommodation – initial assessment of suitability for electronic monitoring and of placement options.

The YOT will need to consider whether electronic monitoring is a valid option and if specified criteria are met. If it is a possibility, an early discussion should be held with the appropriate CSC team to consider the placement options. For young people already looked after this will be the allocated Children's Social Care Team social worker. For young people not known to CSC Referral Team; for prospective places in residential homes, the manager of the home will need to be consulted about the impact on the other residents considered.

The actual placement of a young person Remanded to Local Authority Accommodation is at the discretion of the local authority. There may be occasions where specific placement has not been identified at the point of remand. Where it is clear that it is not going to be possible to identify a remand placement on the day of the remand it is likely that the YOT assessment will be that tagging is not suitable in the particular case.

Where the placement is in foster care, the foster carers have the same right as a parent to consent or not consent to the installation of monitoring equipment in their home. The nature of tagging and the implications for others in the household or establishment will be clearly explained by the YOT.

Where the local authority, under section 20 of the Children Act 1989 already accommodates the young person, consultation with parents should not be overlooked. The YOT, in liaison with the allocated CSC social worker, will usually carry this out.

Where the Court remands the young person to LA Accommodation in exceptional circumstances, CSC in consultation with the YOT may place the young person in his family home, in this case the YOT should contribute to the assessment of the impact on family members living at that address. In certain circumstances placing the young person with members of the extended family may also be considered.

Irrespective of where a remanded young person is placed, the young person remains 'Looked After'. The YOT will need to adhere to local protocols for planning and assessment of young people Remanded to Local Authority Accommodation.

Where the young person is usually resident in a LA outside the YOT area where he has been charged with an offence, the YOT will consult with the authority responsible for the young person's care via the home YOT.

Appendix B

Risk Management Plan

The Risk Management Plan should be reviewed and updated in the light of the additional information.

Identify Risks and Strengths	How will the risks be responded to or strengths enhanced?	If services provided, date added to Service Plan, CP Plan or LAC Plan:	Person/Agency responsible	Date action/ service will commence/ commenced	Date service completed (if appropriate)	Planned Outcomes:	Actual outcome: to be completed at review or closure of case.

Date Risk Management Plan will be Reviewed

Will review take place in *(tick as appropriate)*

Child Protection Review LAC Review S7 Service Review Supervision

Case Worker:		Signed:		Date:	
Team Manager:		Signed:		Date:	

If risk high and child/young person or staff member may be in immediate danger, the Risk Management Record is to be signed by the Service Manager

Service Manager:		Signed:		Date:	
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Risk Assessment Form

Swindon Borough Council Risk Assessment Template

Workplace / Location:			
Activity Description:			
Who is at Harm:			
Name(s) of Assessor(s):			
Responsible Manager:		Department:	
Assessment Date:		Review Date:	

Hazard & Description (Potential Consequences)	Control Measures (Existing Control Measures or Precautions to be Taken)	Risk (with controls)			Are Additional Controls Required?	Residual Risk (after additional controls)			Action Plan (Responsible Person & target date)
		L	S	R		L	S	R	

	Likelihood				
Consequence/Severity	1	2	3	4	5
	Rare	Unlikely	Possible	Likely	Almost Certain
5 Catastrophic	5	10	15	20	25
4 Major	4	8	12	16	20
3 Moderate	3	6	9	12	15
2 Minor	2	4	6	8	10
1 Negligible	1	2	3	4	5

	1 – 3	Low risk
	4 – 6	Moderate risk
	8 – 12	High Risk
	15 - 25	Extreme risk