Local authority responsibilities towards children looked after following remand:

*Consultation on changes to the Care Planning, Placement and Case Review Regulations 2010*

**Background**

The Policy Briefing follows on from Policy Briefing 32 Legal Aid, Sentencing and Punishment of Offenders Bill (July 2011), Policy Briefing 72 Legal Aid, Sentencing and Punishment of Offenders Act (October 2012) and Policy Briefing 81 Remands to Local Authority Accommodation (January 2013).

**Summary**

The youth remand provisions in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 came into force on 3 December 2012. They make significant changes to the remand framework for 10 to 17 year olds in criminal proceedings.

The Act imposes a new scheme for remands of children (other than on bail). All children must now be remanded into local authority accommodation, or (where certain criteria are met) Youth Detention Accommodation. In both situations, the cost of this accommodation must be met by the designated local authority, and the child will attain ‘looked-after’ status.

In view of the fact that the remands will be made by courts at little or no notice to the responsible local authority, and that these children may be looked after for only short periods of time during their remand, this raises practical questions as to the exercise of the care planning functions of the responsible authority.

The Department for Education has launched a consultation seeking views on proposals to amend the Care Planning, Placement and Case Review (England) Regulations 2010. The closing date for submissions is 6 February 2013.

The results of the consultation and the Department's response will be published on the Department for Education e-consultation website by the end of March 2013.

Draft Regulations (the Care Planning, Placement and Case Review (England) (Amendment) Regulations 2013) form part of the consultation exercise.
Where a child is already looked after, and is then remanded to local authority accommodation

It is proposed that the Care Planning Regulations will apply without modification.

Where a child who is not looked after is remanded to local authority accommodation

It is proposed to make some minimal changes to the Care Planning Regulations. It will be the responsibility of the local authority to identify a suitable placement for them; and, for as long as they remain looked after, these children are entitled to the same care planning and review processes as other looked after children although it is proposed that the local authority need not prepare a long term plan for the child’s upbringing (a plan for permanence.)

Under the draft Regulations, the care plan and placement plan must be prepared within 5 working days of the remand, although it is proposed that the local authority need not prepare a long term plan for the child's upbringing (a plan for permanence.)

It is proposed that, apart from the disapplication of the duty to prepare a plan for permanence, all the other elements of a care plan should continue to apply for a child who has been remanded into local authority accommodation. In particular the local authority should arrange for a health assessment to be carried out and should make provision to address the child’s assessed education, training and employment needs. An Independent Reviewing Officer must be appointed to review the care plan at the required intervals.

Remands to Youth Detention Accommodation

Where any child is remanded in Youth Detention Accommodation, it is proposed that the following provisions of the Care Planning Regulations will not apply:

- Regulations 5(c) and 9 (placement plans),
- Regulation 7 (health care) – how local authority duties to make arrangements for the health care of looked after children should apply when they are treated as looked after when remanded to Youth Detention Accommodation forms part of the consultation exercise,
- Regulations 10 (avoidance of disruption in education), 11 (placement out of area) and 14 (termination of placement) - these will not apply as the local authority does not make or terminate the placement for children remanded to Youth Detention Accommodation,
- Part 4 (provision for different types of placement).

Visits - the child’s social worker should visit within one week. These visits could be co-ordinated with arrangements for the initial remand planning meeting. Subsequent visits must take place at intervals of not more than six weeks. In practice more frequent visiting may be necessary depending on the vulnerability and needs of the individual child.
As with other looked after children, the local authority should arrange for visits to keep in touch with the child if they (or their parent(s)) request this; or if a request is made by another professional - e.g. by staff from the allocated Youth Detention Accommodation establishment.

**Where a child is already looked after and is then remanded to Youth Detention Accommodation**

A number of modifications are proposed to the current care planning framework. In particular, instead of a placement plan, the care plan must include a ‘Detention Placement Plan’ which sets out how the Youth Detention Accommodation will contribute to meeting the child’s needs during the period of remand in custody. This must be prepared within 10 working days of the remand.

**Where a child is not already looked after, and becomes looked after as a result of remand to Youth Detention Accommodation**

It is proposed to remove the duty to prepare a full care plan including a permanence plan, and instead to prepare a ‘Detention Placement Plan’ that will set out how the child will be safeguarded and their welfare promoted by the Youth Detention Accommodation whilst they are detained on remand and which will include arrangements for supporting the child when the remand ceases. This must be prepared within 10 working days of the remand. It should include information about how the secure establishment proposes to respond to the child’s needs on a day to day basis - e.g. about how the establishment will provide for the child’s education and training needs; for their health needs; and for any specific cultural needs.

The Detention Placement Plan should focus on two key questions:

a) How will the child be safeguarded and their welfare promoted whilst they are detained on remand; and,

b) Will the child have somewhere to live with appropriate support when the remand ceases and they are no longer detained?

Reviews will need to consider the child’s support needs when they cease to be looked after as a result of the remand ending.

It is proposed that where children will not be looked after and are not likely to be ‘eligible children’ post remand, the care plan or detention placement plan must include details of any advice, assistance and support the designated authority intends to provide to the child when the remand ceases and they are no longer looked after.

**Useful links:**

For the consultation documents and the draft Regulations, see the DfE website: [http://www.education.gov.uk/aboutdfe/departamentalinformation/consultations/a00219899/la-consult-responsibilities](http://www.education.gov.uk/aboutdfe/departamentalinformation/consultations/a00219899/la-consult-responsibilities)
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