

## **NORTH LINCOLNSHIRE COUNCIL**

### **CHILDREN, FAMILIES AND LEARNING CABINET MEMBER**

## **CONCORDAT ON CHILDREN IN CUSTODY**

### **1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To inform the Children's Services Cabinet of the Home Office Concordat on Children in Custody which aims to prevent the detention of children in police stations following charge.

### **2. BACKGROUND INFORMATION**

- 2.1 The concordat is in relation to the transfer of children, who have been charged and denied bail, from police custody to local authority accommodation. The Home Office has written to Directors of Children's Services, Lead Members for Children's Services, Chief Officers and Police and Crime Commissioners to emphasise the expectation that the transfer arrangements are adhered to and the concordat sets out each party's responsibilities and provides a protocol for how transfers should work in practice.
- 2.2 In a letter to all partners, the Home Office state "Between its signatories, it is both an agreement of understanding and a declaration of commitment to ensuring that these duties are fulfilled".
- 2.3 The concordat reinforces and builds on the expectations detailed in the document 'Criteria for assessing the treatment of and conditions for detainees in Police Custody 2016' regarding the use of police custody by the HM Inspectorate of Prisons and HM Inspectorate of Constabulary.
- 2.4 The concordat's stated aims are:
- To support police forces and local authorities across England in complying with their statutory responsibilities with regard to children in custody. It summarises each party's statutory duties in a way that is clear, accessible and unlikely to result in any ambiguity or confusion.
  - To bring about a decrease in the number of children held overnight in police custody.
- 2.5 The requirements within the concordat are already in force. The document, however, clarifies and expands upon the expectations on the police and local authorities in meeting legislative requirements in relation to young people in police custody. It therefore has implications for practice, training for staff, the provision of resources and suitable placements.

- 2.6 The key principles and practice within the concordat are:
- Whenever possible, charged children will be released on bail (utilising conditional bail to manage any risks or concerns)
  - Children denied bail will be transferred [to local authority accommodation] whenever practicable
  - Secure accommodation will be requested only when necessary – the custody officer must refer this to the duty inspector should it be deemed necessary. It is, however, “*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*”
  - Local authorities will always accept requests for non-secure accommodation – however, the local authority decides on the accommodation provided based on the child’s age, needs and identified risks. The document states that “where possible, the most preferable alternative is to return the child to the care of family or friends”
  - The power to detain will be transferred to the local authority – this includes the requirement to ensure that the young person is transported to court
  - Where a local authority fails to provide accommodation it will reimburse the police
  - Police forces will collect data on transfers
- 2.7 Liaison has taken place between North Lincolnshire Children’s Services, including the Youth Offending Service and Humberside Police regarding meeting the requirements of the concordat and both partners have ensured compliance with the concordat since its publication.
- 2.8 The concordat has also been presented to the Youth Offending Management Board. The board endorses the local authority and Humberside Police adhering to the concordat and both parties committing to this.
- 2.9 Relevant professionals in both agencies have been informed of the requirements and expectations of the concordat and are working to it.

### 3. **OPTIONS FOR CONSIDERATION**

- 3.1 Option 1 – agreeing that the local authority sign up to the concordat in liaison with partners in the police. This will include commitment to all the requirements within the concordat and agreement with partners to adhere to its principles.
- 3.2 Option 2 – not signing up to the concordat.

### 4. **ANALYSIS OF OPTIONS**

- 4.1 Option 1 - whilst the Government has not specified the timescale, it says that it will be publishing the concordat in England shortly and is asking all local authorities, police forces and PCCs to become signatories in advance so that this can be reflected in the published document. Signing up to the concordat will ensure that North Lincolnshire is recognised as adhering to the requirements of the concordat within this document.
- 4.1a Signing up to the concordat with our partners will ensure that the council is fully compliant with the legislative requirements in relation to children who are charged and also demonstrate commitment to best practice.

- 4.1b Information sharing and training for all staff on the details within the concordat will continue to ensure a consistent response and that the details within the document – such as the expectations and actions to be taken whilst the young person is accommodated – are fully understood and consistently applied.
- 4.1c Joint procedures to implement the concordat have been updated to ensure compliance. These will be finalised and presented to the Youth Offending Management Board for approval and agreement.
- 4.1d Data collation systems with the police in relation to all young people held in the cells or within local authority accommodation have also been reviewed.
- 4.2 Option 2 – not signing up to the concordat will mean that North Lincolnshire Council is open to potential criticism for not agreeing formally to the expectations and requirements of the concordat.

## **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

- 5.1 The Youth Offending Service records indicate that over a 12 month period, up to 20 young people would potentially meet the requirements of the concordat.
- 5.2 The concordat requires that the local authority always accept requests for non-secure accommodation. It is imperative that sufficient suitable placements are available. This has potential implications for increasing the number of foster placements available and potential additional costs in maintaining these placements. The ‘Sufficiency Strategy’ contains priorities and expectations in relation to providing suitable placements for young people transferred from custody. It has been reviewed in light of the concordat. Potential costs will be approximately £120 / night for a foster placement (including the costs of collecting the young person from the police station and ensuring they are taken to court the following morning) to £900 / night for a secure placement.
- 5.3 Should we not be in a position to provide a placement, the police will potentially claim their costs – the amount the police will charge for this is confirmed at £130 per night – although there may be additional costs if the young person requires additional supervision overnight on a case by case basis.
- 5.4 The concordat states that “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 this is not possible, then the police will retain the child in custody and seek reimbursement of the costs from the local authority.
- 5.5 Arrangements for the council transporting a potentially increased number of children to court will have cost implications and will continue to be reviewed in line with on-going implementation of the concordat.

## **6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)**

N/A

## **7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED**

N/A

## 8. RECOMMENDATIONS

- 8.1 It is recommended that the Cabinet Member supports the principles of the concordat.

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#### **Background Papers used in the preparation of this report:**

- Draft Concordat on Children in Custody – Home Office 2016
- Letter to Directors of Children's Services, Lead Members for Children's Services, Chief Officers and Police and Crime Commissioners from the Rt Hon Theresa May MP, Home Secretary and the Rt Hon Nicky Morgan MP, Secretary of State for Education