

# POLICE BAIL AND REMAND FOR CHILDREN





# CHAIR

**Katya Moran**

Co-Head of the Youth Justice Legal Centre  
at Just for Kids Law

# SPEAKERS

**Jacqui Belfield-Smith**

Head of Youth Justice, Serious Violence Reduction &  
Targeted Youth Support Services, Stockport Council

**Mel Stooks**

Head of the Youth Crime Team at GT  
Stewart Solicitors

**Sam Jacobs**

Barrister, Doughty Street Chambers

**Jennifer Twite**

Head of Strategic Litigation at Just for Kids  
Law

# Jacqui Belfield-Smith

Head of Youth Justice, Serious Violence Reduction & Targeted Youth  
Support Services, Stockport Council

# Child-Centred Policing

## Police Custody

**GREATER  
MANCHESTER**  
DOING THINGS DIFFERENTLY

# Introduction

- **Jacqui Belfield-Smith** (Head of Youth Justice & Targeted Youth Support)  
Stockport Council & Vice-Chair of the Association of YOT Managers (AYM)
- Also GM Lead YJ Lead for ‘Children in Police Custody’
- The Greater Manchester experience focusing on police custody
  - 10 Local Authorities (Bury, Bolton, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford & Wigan)
  - 1 Police Force (Greater Manchester Police) GMP
  - 7 Operational Custody Suites (+ 2 additional) and CT Suite
  - 1 Probation Area (GM Probation)
  - GM Mayoral administration (Greater Manchester combined authority)

# History

- Back in 2011, GMP had one of the highest numbers of overnight detentions in the country with up to 100 children being held in detention overnight every month and a paucity of ‘transfers under PACE’
- This was reinforced by a 2011 HMIC carried out an inspection of GM custody suites which was critical of some aspects of practice from GM agencies working in the custody suites, particularly in relation to safeguarding children. The subsequent report was called ‘Who’s Looking Out For The Children’

# Key Stakeholders

- The decision was taken by senior members of the 10 GM Local Authorities and GMP to pull together a Working Group to have a root and branch look at how children were being dealt with in police custody.
- Initially in 2012 this was led through the GM Directors of Children's Services, Senior Officers from GMP and the 10 Heads of GM Youth Justice Services.
- Latterly this then went on to include; Greater Manchester Combined Authority (GMCA), Integrated Healthcare, Liaison & Diversion, Children's Services (Out of Hours/Emergency Duty Teams), Complex Safeguarding, Child Action North West (Appropriate Adult Service), The Children's Society and other stakeholders as relevant.

# Objectives

- The aim was to review the current custody process as it applies to children and young people in Greater Manchester from the point of arrest through to exit from custody, with a view to:
  - Reducing the number of children who are unnecessarily detained in custody
  - Reducing the length of time that children spend in custody
  - Improve the custody experience from the perspective of the child
  - Ensure that national standards are being consistently applied across GM with regards to children in custody.

# Principles

- Engaging with children to inform and shape services.
- Keeping children out of custody where possible....
- Challenge whether custody is proportionate.
- Children to be in custody for as little time as possible.
- Affect a cultural shift to treat a child as a child, distinct from adult policing.
- Identify children's specific needs and vulnerabilities.
- Partners in and out of custody to work in an integrated way to meet the needs of the child.
- Ensure an appropriate outcome and support is in place on exit from custody
- Employ a consistent approach across all custody areas.
- Be ambitious for change and challenge system constraints and competing priorities.

# Scope & Governance

- Look at all aspects of police custody including:
  - pre-custody: first point of contact;
  - in the custody suite: booking in, individual needs and legal rights
  - in the custody cell: safeguarding and health care
  - release and transfer from custody
- Review current governance and oversight arrangements for children in police custody
- Report findings at a senior level through GMCA, GM DCS' & GMP

# Activities

**Informal Interviews** – Journey-map cases and involve key stakeholders in the discussion. Create a learning culture.

**National Guidance & Good Practice** – Review national guidance including ‘The College of Policing Authorised Professional Practice for Detention and Custody’ & HMIC’s standards on the ‘Welfare of Vulnerable People in Police Custody’. Identify examples of good practice.

**Voice of the Child** – Work with Participation Services to listen to the views and experiences of children who have recently been police custody and be prepared to inform and shape services.

**Data Analysis & Process-Mapping** – Big picture, proportion who go to custody, which divisions and custody suites, what is the outcome (disposal), length of time held, overnight detentions. Trends and comparison with other forces.

**Governance and Oversight** – Identify current governance and oversight and whether this is in-line with national guidance. Consult with HMIC around examples of good practice & recommendations from recent inspections.

# Outcomes

- Development of a GM (PACE) Local Authority/GMP Protocol
- Contribution to the 2017 'Concordat in Police Custody'
- Tender in 2017 for a GM-Wide single provider 'Appropriate Adults' Service (for children & adults)
- GMCA-commissioned Integrated Healthcare provision operating in every Custody Suite 24/7 (also includes a Liaison & Diversion Service)
- Named Senior Lead in GMP for 'Child-Centred Policing'
- Participation work through Coram Voice & The Children's Society 'listening' to the experiences of children who had been in police custody
- Jointly delivered training (GMP and LA) for new Custody Sergeants (as part of induction)
- All 10 GM Local Authorities have jointly commissioned a dedicated s.38 PACE bed
- Close liaison & agreements with local Secure Children's Home
- Child-Centred Custody Task & Finish Working Group
- Monthly Scrutiny function (including dip-sampling)
- Distraction Packs in every Custody Suite (and books donated by GM local libraries)
- Significant reductions in number of overnight detentions.....**but we're not there yet**

# Mel Stooks

Head of the Youth Crime Team at GT  
Stewart Solicitors

# Samuel Jacobs

Barrister, Doughty Street Chambers

# What should happen post charge?

Section 38(1) PACE – presumption of bail unless:

(a) Reasonable grounds to believe:

- a. will fail to attend court
- b. detention is necessary to prevent physical injury or loss or damage to others,
- c. detention is necessary to prevent interference with justice

(b) Detention is in their own interests.

Bail conditions may satisfy concerns

# Refusal of bail: duty on the custody sgt

Section 38(6) PACE 1984:

Custody officer must secure transfer of the child to local authority accommodation unless:

- (a) Impracticable (see the Home Office Concordat)
- (b) Secure local authority accommodation is necessary to “*protect the public from serious harm*” but is not available

# Refusal of bail: duty on the local authority

Section 21(2) of Children Act 1989, as considered in *R (M) v Gateshead [2006]*  
QB 650

The local authority is under:

- (a) An absolute duty to provide non-secure accommodation in response to requests made by a custody sgt
- (b) A duty to have in place a “*reasonable system*” to respond to requests for secure accommodation

Parliamentary intention: that children should not be detained in police cells

# Duties honoured in the breach....

## Non-secure accommodation

- MPS stats in 2018:
  - 356 requests for non-secure accommodation
  - 53 were met!
  - Clear breach of duty

Ways forward:

- Seek early requests
- Assert mandatory nature of the obligation
- Consider claim for damages
- JR – ‘systems challenge’

# Duties honoured in the breach....

## Secure accommodation

- MPS stats in 2018:
  - 342 requests for secure accommodation
  - 1 was met!

Far too many requests for secure (cf Manchester)

# R (AR) v Waltham Forest [2021] EWCA Civ 1185

Nationwide, gross shortage of secure accommodation (15 nationally)

Waltham Forest's 'reasonable system'

- It can always answer the phone
- It can consider and send a request for secure accommodation
- The answer (realistically) will always be no
- Closest secure accommodation for s.38(6) requests near Manchester

# R (AR) v Waltham Forest [2021] EWCA Civ 1185

Court of Appeal “*The system was inherently likely to fail in the sense that, as a matter of routine, the answer to a police request would be “No.”*

That is not a reasonable system; it is in breach of the statutory duty and purpose that children should not be in police cells

There is some pan-London work to resolve the issue, at a snail’s pace

# Jennifer Twite

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# QUESTIONS?

# #01 Turning 18

This guide deals with the impact of turning 18 on young people in the criminal justice system. It covers what happens when a young person turns 18, and how this affects their rights and responsibilities.

The guide also highlights the importance of turning 18 in providing opportunities for young people to take control of their lives and make positive choices.

In this guide, you will learn about:

- What happens when a young person turns 18?
- How turning 18 affects their rights and responsibilities.
- How turning 18 provides opportunities for young people to take control of their lives and make positive choices.

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# #02 Intermediaries for child defendants

This guide deals with the impact of having an intermediary for child defendants in the criminal justice system. It covers what an intermediary does, and how they can help young people.

The guide also highlights the importance of having an intermediary for child defendants in providing opportunities for young people to take control of their lives and make positive choices.

In this guide, you will learn about:

- What an intermediary does for child defendants.
- How an intermediary can help young people.
- How having an intermediary for child defendants provides opportunities for young people to take control of their lives and make positive choices.

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# #03 Child Criminal Exploitation

This guide deals with the impact of child criminal exploitation in the criminal justice system. It covers what child criminal exploitation is, and how it affects young people.

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# #04 Criminal Behaviour Orders

This guide deals with the impact of having a criminal behaviour order in the criminal justice system. It covers what a criminal behaviour order is, and how it affects young people.

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# #05 Trauma Informed Lawyering

This guide deals with the impact of having a trauma informed lawyer in the criminal justice system. It covers what a trauma informed lawyer is, and how they can help young people.

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# #06 Criminal Practice Directions

This guide deals with the impact of having a criminal practice direction in the criminal justice system. It covers what a criminal practice direction is, and how it affects young people.

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# #07 Effective Participation

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# #08 Police bail and remand

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# #09 Court Bail and remand

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# #10 Diversion

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# #11 Sexual allegations

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- How sexual allegations affect young people.
- How having sexual allegations provides opportunities for young people to take control of their lives and make positive choices.

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# #12 Anonymity

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