

## **B&NES young people with SEND in custody**

### ***Working draft protocol***

In B&NES we have a very small number of young people sentenced to custody each year. Some of these young people will be disabled and/or have special educational needs.

From 1<sup>st</sup> April 2015 there are new laws and statutory guidance that apply to how young people with SEN are supported in youth custody.

This working draft protocol briefly outlines the key requirements and sets out roles and responsibilities locally. The SEND code of practice should be used for detailed guidance on the application of these duties in each case.

### **The law**

In addition to the general provisions of the *Children and Families Act 2014* in relation to SEND and other legislation relevant to SEND and youth custody, sections 70-75 of the Act and *the Special Educational Needs and Disability (Detained Persons) Regulations 2015* set out specific statutory provision for young people with SEN in youth custody.

These specific provisions come into force from 1<sup>st</sup> April 2015.

### **Code of practice**

SEND code of practice 10:60 – 10.150 (pp222 – 243) provides detailed statutory guidance on children and young people with SEN in youth custody.

### **Key duties**

1. Youth offending teams and youth accommodation providers must have regard to the SEND code of practice and must cooperate with the local authority in relation to SEND.
2. Youth offending teams (YOT) must notify local authority (SEN team) when any young person under 18 is remanded or sentenced to custody.
3. LA (SEN team) must tell the YOT and youth accommodation provider within 5 days if the young person is known to have special educational needs, and provide all available information about those needs including a copy of the EHC Plan if there is one.
4. Youth accommodation providers complete an education assessment for all young people admitted, leading to an Individual Learning Plan. This must take account of any SEN identified through their assessment and any information supplied by the LA including an EHC Plan if there is one.

5. The LA must maintain an existing EHC Plan for young people under 18 remanded or sentenced to custody.
6. The LA must arrange and monitor any special educational provision specified in the EHC plan, or as close to it as possible, while in custody.
7. Health needs for all young people in custody are assessed using the Comprehensive Health Assessment Tool leading to an individual health care plan. This must take account of information provided by the LA about a young person's needs including an EHC Plan if there is one.
8. Health care specified in an EHC Plan must be arranged by NHS England who are the health commissioner for custodial establishments.
9. Consideration must be given to whether social care needs specified in the plan continue in custody. There are specific duties to young people in care who go into custody. A young person remanded to custody becomes a young person in care.
10. The EHC Plan must be reviewed on release.
11. Young people and relevant youth accommodation providers may request an EHC needs assessment while the young person is in custody.
12. The LA must complete any EHC needs assessment underway on entry to or exit from custody.

## **Guidance notes**

### **SEN support**

The aim of the legislation and guidance is to ensure that special educational needs are met in youth custody for young people under 18. The education assessment carried out by the youth accommodation should identify any SEN and ensure it is met. The duty to have regard to the code of practice means that the code of practice should be followed by youth accommodation including education and health care provision within that accommodation.

The notification duties should ensure that the youth accommodation is informed about any SEN known to the LA and has a copy of any EHC Plan. As schools inform the authority of young people receiving SEN support this information can be provided by the SEN team. The information held by the LA is limited however, unless a statutory assessment has been carried out. The YOT might want to approach the school for copies of any information they have about the SEN support being provided as this will help in ensuring the right support can be provided in custody.

### **EHC Plans**

The aim is to ensure that provision set out in an EHC Plan continues to be made in custody and that there is timely planning to meet needs on release.

Where the EHC Plan includes health care provision this should be arranged by NHS England. However, if a young person with an EHC Plan including health care

provision goes into custody, the SEN team should advise the Designated Clinical Officer in any case.

Where the EHC Plan includes social care provision the YOT should advise the social worker so that consideration can be given to how social care needs may be met.

The SEN team will need to lead on reviewing EHC Plans for those in custody and monitoring provision. The YOT and youth accommodation provider will be key members of the team around the young person for reviewing EHC Plans while in custody.

### **Cross-border issues**

If a young person is in care to B&NES and living out of area on going into custody, the LA where they are placed has the duty to provide information including the EHC Plan. The YOT should notify both local authority SEN teams in this case.

Young people placed in custody in Wales, where SEND reform has not been enacted, should be supported in the same way as if they were placed in England. In this case the Local Health Board is responsible for arranging to meet health care needs.

### **Detailed guidance**

The code of practice gives more detailed guidance on the application of the duties set out in this protocol, and should be referred to when supporting a young person with SEN who goes into custody.

Charlie Moat

April 2015