

**THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
and THE CITY OF WESTMINSTER**

POLICY
FOR CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS
WHO ARE IN YOUTH CUSTODY.

The SEN Code of Practice 2016 - Section 10:60 to 10:150 relates to the children and young people with Special Educational Needs detained in custody.

The Key aspects of the SEND system are:

- ❖ 0-25 system (for detained children and young people, the new approach applies to age of 18 and under).
- ❖ Focus on outcome and preparing for adulthood.
- ❖ Joint working between education, health and social care.
- ❖ Principles of engaging with young people, children and their parents with greater transparency/information about what is available in the local area.
- ❖ Education, Health and Care Plans replace Statements of SEN and Learning Difficulty Assessments.

Local Authorities, Young Offending Teams (YOTS), health commissioners and those in charge of the relevant youth accommodation must have regard to the SEN Code of Practice for children and young people in custody.

Youth Offending Team Contact Details

Contact details for the youth offending team in The Royal Borough of Kensington and Chelsea and The City of Westminster can be found via:

<https://www.rbkc.gov.uk/contactsdirectory/az.aspx?orgid=1788>

<https://www.westminster.gov.uk/youth-offending>

SEN Service Contact Details

In the first instance please contact the SEN Service on SEN@rbkc.gov.uk or telephone 0207 361 3311 and you will be put in contact with the relevant SEN Team Manager.

If the Child or Young Person has an Education, Health and Care Plan (EHCP):

- The relevant YOT Manager will update the relevant SEN Team Manager with details of any child or young person who has gone into custody.
 - Email to SEN@rbkc.gov.uk or SEN@westminster.gov.uk
 - Telephone : [0207 361 3311](tel:02073613311)
- The SEN Service will update Sharepoint and share a copy of the finalised EHCP with the YOT Manager.
- The YOT Manager will share the finalised EHCP with secure accommodation lead professional for the child/young person.
- The special education needs and health outcomes, such as speech and language intervention, physio or occupational therapy which will be monitored by relevant health professionals, as detailed within the EHCP must be provided by the Secure Accommodation as it is reasonable able – this means:
 - This will be in line with the child or young person's other needs and restrictions place upon them by the Court or by Secure Accommodation.
 - The duration of the stay; and
 - Any other mitigating factor.
- If the child or young person has a social worker, they should continue to have access to those specific services. The link social worker will monitor and oversee the outcomes as detailed within the EHCP.

- The link social worker should link with YOT Service should work together with ensuring the sharing of relevant information and in preparation for the child or young person's release.
- The SEN Service and YOT Service are to work together with the secure accommodation to 'promote' the educational fulfilment, as is practicable, of the child or young person's learning potential.
- The SEN Service must continue to 'maintain' the EHCP whilst the child or young person is custody.

Looked After Children remanded or sentenced to custody [if under 18]

- If under Section 20, a child who is remanded to secure accommodation or a YOI, they would no longer be looked after under section 20 as they are no longer voluntarily accommodated by the LA. [They would revert to Section 20 upon release]. However young people that are remanded become Looked After under LASPO.
 - The link social worker should link with YOT Service and they should work together with ensuring the sharing of relevant information and in preparation for the child or young person's release.
- If under Section 31, children who offend and receive a custodial sentence, will remain looked after as if they were under a care order immediately prior to conviction.
 - The social worker assigned to the child would remain as the 'corporate parent' and should ensure close liaison with the YOT, Virtual School and SEN Service.

The Responsibilities of the Secure Accommodation to meet the SEN of Children and Young People in Custody:

The Secure Accommodation should:

- Meet the special educational needs of all detained persons, whether they have an EHCP or not.
- Ensure that the special educational provision which includes the identification and support for child and young people with SEN follows the same model as for schools and colleges. The SEN Code of Practice can be viewed here: <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>.
- Have staff who are suitably qualified to support this (such as SENCOs) and make referrals to other specialist support where this is appropriate.

- Liaise and co-operate with the Local Authority YOT and SEN Team where a child or young person has an EHCP.
- All children & young people entering custody will be screened and assessed using the Comprehensive Health Assessment Tool (CHAT). The CHAT is to be completed by SENCo or suitably qualified professional at the secure accommodation. The completed CHAT must be shared with linked YOT Worker.

A Young Person over the age of 16 can make their own request for an Education, Health and Care Needs Assessment (EHCNA) – Pre-release

If under 16, the request can be made by the Parent or Legal Guardian Pre-release

Appropriate support after release will help the resettlement process. If the child or young person has SEN, the appropriate person, or the person in charge of the relevant youth accommodation, has right to ask the Local Authority to arrange an assessment of the child or young person's post-detention education, health and care needs.

- When a Looked After Child is living outside of the Borough before entering custody, it is that Borough/Local Authority where the request for EHCNA is sent to and if agreed to proceed ahead, that Borough/ Local Authority must complete the EHCNA within the 20-week process.
- If a child or young person, is placed out of the Borough temporarily, any request for EHCNA would be made to the Borough/Local Authority to where they were 'ordinarily' resident at the time of entering custody.
- Social Care, Virtual School and YOT are to work together with the secure accommodation to 'promote' the educational fulfilment of the child or young person. During this time and they should work together as to practicalities of an EHCNA and seek guidance and support from the SEN Service, if required.

Upon submission of an EHCNA request and to reduce timescales for the benefit of the child/young person. The following information should be provided to the SEN Service by the relevant youth accommodation:

- Evidence of the child or young person's academic attainment, rate of progress and engagement with the education;
- Information about the nature, extent and context of the child or young person's special educational needs;
- Evidence of action already being taken by the school or Post 16 institution the child or young person was attending prior to detention to meet their special educational needs;

- Evidence that where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided; and
- Evidence of the child or young person's physical, emotional and social development and health needs drawing on advice from clinicians and other health professionals and what has been done to meet these in the youth accommodation.

The purpose of the assessment is to consider whether they may need support from an EHCP on release from custody.

The assessment will follow the normal 20-week process. Please find further information regard to this from the Borough's Local Offer website. The assessment continues even if the child or young person is released from custody.

The SEN Service will seek advice from the relevant professionals involved with the child or young person including:

- The previous school/post 16 institution or who was providing the educational provision prior to the detainment;
- Health;
- Educational Psychologist;
- Parents/Carers;
- Child or young person;
- Person in charge of the youth accommodation;
- Social care; and
- YOT

Exemptions to timescales

- The educational institution is closed for at least 4 weeks.
- Exceptional personal circumstances [Being detained in youth custody in itself is not an exceptional personal circumstance].
- The child/young person's parent is absent from the area for a period of at least 4 weeks.

Rights of appeal & mediation remain the same

- The SEN Service should work with YOT and the person in charge of the youth accommodation to ensure that the mediation information can take place and that the YP and their parent (if appropriate) is able to participate in mediation, if they choose to go to mediation. Most mediation sessions should take place in the relevant youth accommodation and in some cases it may be appropriate for mediation to take place via a video link.
- The person in charge of the youth accommodation should also ensure arrangements are in place to enable the YP to attend a Tribunal where an

appeal is made. There may be security considerations involved and in some cases a Tribunal hearing could take place via a video link but only where this is accessible to the young person.

Transfer between relevant youth accommodation for a child or young person.

- The YOT must notify the SEN Service as soon as possible if the child or young person is transferred to an alternative secure accommodation.
 - Email to be sent to SEN@rbkc.gov.uk cc in Deputy Head of Service and link keyworker (if known).
- The SEN Service must send a copy of the finalised EHCP within 5 working days of the notification of the transfer.
- If the EHCNA is underway, the SEN Service will complete the EHCNA (whenever feasible), for the benefit and continuity of professional involvement for the child or young person.

Pre-Release Meeting – If the child or young person has an EHCP

Actions to be taken:

- The YOT must notify, as soon as possible, the SEN Service if a child or young person is to be released from custody in order to inform the resettlement process and should ensure that all external agencies are aware of their responsibilities under the proposed release plan and condition of licence or notice of supervision.
- The YOT should inform any relevant community services that the detained person is due to be released.
 - **The YOT Service, Social Care (if applicable), Secure Accommodation and SEN Service should work together ensuring that a professionals meeting is set up within 4/6 weeks of the date of the commencement of the sentence.**
- An emergency review of the EHCP should be arranged with representation from YOT, SEN, Social Care, previous or receiving school representative from the secure accommodation, parent(s)/carer(s) and any other relevant professional.
 - **This meeting should be arranged at least 4/6 weeks prior to the release. This will be flexible to meet the needs of the individual young person and the length of their sentence.**
- If the child or young person with an EHCP is going to be in secure accommodation for more than 12 months, a review of the EHCP must be held.

- This will be set up and attended by professionals from YOT, SEN, Secure Accommodation, Parent and Social Care and any other relevant professional.

If the Child or Young Person with an EHCP is going to be living upon release in another Borough.

- The YOT must notify the SEN Service where the child or young person is usually resident and the new Borough/Local Authority in whose area the YOT expects the child or young person are to live upon release.
- The SEN Service must send the EHCP to the new Borough/Local Authority within 5 working days of the notification of the move, so that the necessary educational placement can be arranged.
- The new Borough/Authority will become responsible for maintaining the EHCP and for securing the SEN specified.
- If the EHCNA is underway, the SEN Service will complete the EHCNA (whenever feasible), for the benefit and continuity of professional involvement for the child or young person.

Transition to youth justice to a custodial establishment for adults

- If a young person is transferred to an adult custodial establishment, all SEN Information and the EHCP is passed to the receiving establishment.
- The SEN duties in regard to the C&F Act 2014 no longer apply, once a young person is transferred to the adult secure estate

HELPFUL LINKS

Local Offer

If you would like to find out more about services and support for children and young people (aged 0 – 25) with SEND and their families in **Kensington and Chelsea** please go to: <https://www.rbkc.gov.uk/localoffer>

If you would like to find out more about services and support for children and young people (aged 0 – 25) with SEND and their families in **Westminster** please go to: <http://localoffer.westminster.gov.uk>

The Information, Advice and Support Service

The Information, Advice and Support Service is a free service for children and young people. They can help you find out about your rights under the law and about the Education, Health and Care Needs Assessment. The IASS for families living in **Kensington and Chelsea** can be contacted at: office@fulloflifekc.com or 0208 960 9064.

The Information, Advice and Support Service is a free service for children and young people. They can help you find out about your rights under the law and about the Education, Health and Care Needs Assessment. The IASS for families living in **Westminster** can be contacted at: iass@westminster.gov.uk or 0207 641 5355.

Council for Disabled Children

The Council for Disabled Children are the umbrella body for the disabled children's sector bringing together professionals, practitioners and policy-makers.

They have plenty of useful factsheets on:

- Independent Support
- Information, Advice and Support
- Transition Information Network
- Education and Early Years
- Health and Wellbeing, and
- Social Care.

You can download these factsheets via:

<https://councilfordisabledchildren.org.uk/help-resources/resources/resource-type/fact-sheet?page=3>

Agreed By: Kay Stammers Principal SEN Service Manager (WCC)

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Date: 07.09.2021

Agreed By: Kiran Hayer Head of YOT (WCC)

Mark Downie Deputy Manager of YOT (RBKC)

Date: 07.09.2021

To be reviewed within 12 months of the above date