

DUNDEE CITY COUNCIL

REPORT TO: Social Work Committee - 16 February 2004

REPORT ON: Detention of Children - a Joint Protocol (Policy and Procedure)

REPORT BY: Director of Social Work

REPORT NO: 145 - 2004

1.0 PURPOSE OF THE REPORT

1.1 This report seeks committee approval of the Detention of Children, a Joint Protocol (Policy and Procedure) between Dundee City Council and Tayside Police. The report provides details of:

- a) the implications for children being detained in police custody; and
- b) the responsibilities of Dundee City Council Social Work Department in respect of the joint protocol.

1.2 A copy of the Joint Protocol (Policy & Procedure) has been passed to each of the group secretaries and is available for inspection in the members lounge.

2.0 RECOMMENDATIONS

It is recommended that the Social Work Committee: -

2.1 Note and approve the contents of the report and the Detention of Children a Joint Protocol (Policy and Procedure) agreed between Dundee City Council and Tayside Police.

2.2 Note that the protocol will be reviewed in twelve months time.

3.0 FINANCIAL IMPLICATIONS

3.1 There are no financial implications arising from this report.

4.0 LOCAL AGENDA 21 IMPLICATIONS

4.1 The initiatives outlined in the Protocol are aimed at improving the quality of circumstances when children and young people are detained. They further the Council's commitment to protect vulnerable children and young people.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 This protocol adheres to the European Convention on Human Rights. The main clauses from the Convention relating to the Protocol are: -

- Prohibition of torture
- The right to liberty and security of person
- Right to a fair trial
- Right to respect for private and family life.

6.0 MAIN TEXT

6.1 Detention of Children

Detention of Children, a Joint Protocol (Policy and Procedure) agreed between Dundee City Council and Tayside Police is designed to minimise the incidence of children being detained in police stations. Only where it is necessary for the investigation of crime and the prevention of serious harm to a child, or the public, will children be arrested and detained.

Children can be detained and arrested by the Police in the following circumstances: -

- a) they are suspected of a crime or offence and are detained for questioning; or
- b) they have been arrested for a crime or offence; or
- c) a warrant for their apprehension has been issued by a Children's Hearing or a court; or
- d) they have absconded from a place at which they are required to reside as a condition of a supervision requirement or detention order from a court.

In respect of children who have been arrested by the Police, the law requires that children must not be deprived of their liberty and must not, in particular, be detained in police custody for any period unless there are exceptional circumstances. Tayside Police and Dundee City Council have agreed that:

- Children will be released for summons or liberated, wherever possible and as quickly as possible.
- Where the child cannot be released or liberated, Police and Social Work staff, working alongside parents and guardians wherever practicable, will vigorously pursue alternatives to detention in a police station.
- The main agencies will share significant information that will aid decision making between them (including known medical factors and any self harm/mental health concerns and child protection concerns).
- Where children have to be detained in a police station it shall be in a detention room and are exceptional circumstances.
- Any period of detention in a police station will be subject to frequent and regular review by both Police and Social Work personnel.

Parental Involvement

If a child is not 'looked after' and accommodated by the Council and their parents,

- cannot be contacted; or
- cannot or will not attend at the place where the child is being detained; or
- cannot be present during interview, the Police, having sought and taken into account the views of the child, will first try to find another independent and responsible adult who already knows the child. If this is not possible the Police will inform the Social Work Department which will seek to arrange for a member of staff to be present wherever practicable.

Children who are in local authority care

If the child is already looked after and accommodated by the local authority then the Police will inform Social Work and;

- where the parents have parental responsibilities, Social Work will inform the parents.

The parents will be encouraged to attend the police station;

- where the Local Authority have parental responsibilities through a Parental Responsibilities Order or Freeing for Adoption Order, the Social Work Department will decide who shall be present.

This Protocol will ensure that there is no infringement of the rights of the child. It will also ensure that individuals within agencies are clear on their roles and responsibilities.

7.0 CONSULTATION

7.1 Tayside Police, the Chief Executive, the Depute Chief Executive (Support Services) and Depute Chief Executive (Finance) have been consulted in the preparation of this report.

8.0 BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing the above report.

9.0 SIGNATURE

Alan G Baird
Director of Social Work

Date: 4 February 2004