

Changes to Police Pre-charge Bail Provisions and the Implications on Working Together to Safeguard Children

Effective from 3rd April 2017



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Leicestershire
Police
Protecting our communities

Aim

To provide Partners with an understanding of the changes to pre-charge bail provisions for Police investigations and how this impacts on future safeguarding of children within Leicester, Leicestershire and Rutland.

Objectives

- Identify why the changes are being made
- Outline the key changes to the pre-charge bail provisions
- Evaluate how the changes affect arrest strategy, investigation strategy, safeguarding and post release investigation
- State the benefits of the new legislation within the Police and Criminal Evidence Act 1984 (PACE)

Why are the changes being made?

- Government intention is to reduce numbers on pre-charge bail and reduce length of bail periods
- Regulates Pre-charge Bail (time limits – authority levels)
- Process will make Police more accountable and subject to greater independent scrutiny
- Professionalises and standardises Pre-charge Bail processes

Key Changes

- The legal presumption within PACE is that where further enquiries are required to meet the evidential test to charge we will release detained persons from custody **WITHOUT BAIL**
- Unless
- It is deemed **NECESSARY & PROPORTIONATE** & the detained person has had an opportunity to make representations about the imposition of bail
- Where bail conditions are sought the Police are required to meet an evidential threshold test sufficient that any person arrested for breach of conditions can be charged and remanded into custody.

How do the Police decide what is necessary and proportionate?

These requirements are not defined within the legislation but will be considered as follows:

NECESSARY – Needed/required/last resort

In respect of safeguarding children we must show that we have explored every other available option to deal with the risk to the child before considering whether to apply for bail.

PROPORTIONATE - Balanced/reasonable/justifiable

In other words we are only taking action that is reasonable in all the circumstances.

“Not using a hammer to crack a nut”

It is anticipated that for Child Abuse Investigations only a very small amount of cases will meet the criteria for bail to be authorised with conditions.

What are the new timescales in relation to persons released on bail?

- An Inspector can authorise a person to be released from custody on bail for an initial period of **28 days** which begins the day after the arrest, but only where the above conditions are satisfied.
They must not only consider the imposition of bail but also each condition attached to the bail.
- A Superintendent on application can authorise an extension of the initial bail period up to **3 months**; this includes the initial 28 days so effectively is an extension of 2 months.
- A magistrate on application can authorise a further extension up to 6 months; this includes the initial 3 months.

Any application to extend an initial period of bail is likely to fail if we cannot demonstrate effective monitoring of the conditions imposed

What is the impact on working together in relation to how we manage the safeguarding of children?

- Joint investigations where persons are arrested **CANNOT** automatically rely upon bail conditions to safeguard and manage the risk to children
- Earlier considerations will be required to develop and instigate the immediate safeguarding plan
- Where persons are released on conditional bail stringent timescales now apply which will require the Local Authority to instigate the long term safeguarding plan at an earlier stage
- Welfare of victims and suspects requires effective management

What can we do together to ensure safeguarding and risk to children is effectively managed?

- Prioritise the immediate safeguarding plan from the outset of a referral; consider making this part of your Section 47 Strategy Discussion as a matter of course
- Share relevant and current information that could reasonably affect the decision for conditional bail to be authorised
- Consider the long term safeguarding plan at an earlier stage
- Communicate and work together to ensure the needs of the child are met

What safeguarding alternatives to bail conditions are available?

- Section 20 Childrens Act 1989
- Emergency Protection Orders
- Exclusion Orders

What are the benefits of the change?

- Those released on conditional bail will promote expedience in investigations which benefits the child
- Cultural change that will clearly demonstrate those on bail are regarded as a significant risk to children, rather than being “The Norm”
- For those where threshold for conditional bail is met, information supports Local Authority assessments and proceedings

Summary

- Change occurs on the 3rd April 2017
- Legal presumption that detainees will be released WITHOUT BAIL
- Authorised bail must be necessary and proportionate
- Evidential test to be met to allow bail conditions to be sought and if authorised effective monitoring must be demonstrated
- Earlier decision making on immediate safeguarding plan required
- Set timescales apply which require earlier implementation of long term safeguarding plan
- Welfare of victims and suspects should be managed effectively