

# **A Protocol to reduce the criminalisation of children and young people in Care and Care leavers.**

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## Overview

**“Looked after children in England and Wales are significantly overrepresented in the criminal justice system. In England, children in care are five times more likely to be cautioned or convicted of an offence than children in the general population. Although only 1% of children in England and 2% of those in Wales are looked after, the 2015-16 survey by HM Inspectorate of Prisons found that 37% of children in young offender institutions and 39% of those in secure training centres have experience of local authority care” (‘In Care, out of Trouble’ an independent review chaired by Lord Laming January 2017).**

South Gloucestershire is committed to helping children in their care and care leavers to get the best outcomes in life. It is recognised that criminalisation can be a barrier to successful transition into adulthood and to future life prospects.

**Our challenges are to:**

- **Recognise and minimise the pre-existing factors that place children and young people in care at greater risk of offending.**
- **Protect children and young people in care from entering the criminal justice system as a response to their vulnerability, by providing them with additional support and protection.**
- **Develop a set of principles that ensure, where a criminal justice outcome is warranted, the strategy allows the use of professional discretion to ensure the outcome is not disproportionate to the circumstances.**

Research shows that offending by children and young people in care is associated with some common factors:

- Offending in residential settings.

- Offences against perceived ‘authority’ figures such as care staff and emergency service personnel responding to incidents involving children in care.
- Multiple care placements.
- Poor compliance with court orders.
- A significantly higher rate of offending by girls in care, compared to those in the wider population.
- Experience of childhood trauma and adversity.

Additionally, young people living in care settings are more vulnerable to criminal and sexual exploitation, to gangs and to being drawn into County Lines networks.

A reduction in offending by children and young people in care will only be achieved through improved joint working between all agencies and local authorities.

Police Forces have a requirement to review their practices and procedures in relation to how they respond to crimes committed by children and young people in care, as part of the National Police Chief Council’s (NPCC) Children and Young Person’s strategy.

The Children’s Homes (England) Regulations 2015 set out the requirement for Homes to agree procedures and guidance with local

police, to reduce police involvement and criminal responses to behaviour in children's homes. Children should not be charged with offences resulting from behaviour that would not lead to police involvement if it occurred in a family home.

In South Gloucestershire, Police endeavour to use out of court disposals where possible for offending by children and young people in care, however these existing practices are not supported by a protocol or an over-arching strategy.

**For the sake of clarity this protocol covers all young people in care, whether they are placed in Children's residential units or homes (either private or local authority run), with foster parents or in supported lodgings. This protocol also covers children from South Gloucestershire placed out of area and children from outside South Gloucestershire who are**

**placed in the area. This protocol does not remove the need to inform and involve Social Workers and other professionals from the young person's home area in decision-making.**

This protocol also does not reduce the need for action to be taken over safeguarding issues and how they relate to young people. Care placements, and others, should continue to raise concerns over young people who go missing; who are in danger of being subject to Child Sexual or Criminal Exploitation or Serious youth violence; or are at risk of being drawn into County Lines activities (for example) as a matter of urgency. These matters require a robust multi-agency response and should be followed up as soon as possible, using the current Risk Management pathway or the ROTH model in the future.

**'Whilst the vast majority of looked-after children do not get into trouble, for a small number, contact with the criminal justice system can make it that bit harder to achieve positive outcomes. Whilst never taking away from the need to take responsibility for actions and their consequences, the right approach in responding to challenging behaviour or during contact with criminal justice agencies can help avoid unnecessarily criminalising looked-after children and care leavers and promote better outcomes for them and society'.**

**Nadhim Zahawi MP, Parliamentary Under Secretary of State for Children and Families**

Ministerial Forward to :The National Protocol on reducing unnecessary criminalisation of looked-after children and care leavers . November 2018

## Context: The National Protocol on Reducing Unnecessary Criminalisation of looked-after children and care leavers. (November 2018)

The protocol is a framework for best practice for those working with Children in Care (CiC), **in all types of placement**, and care leavers up to age 25.

The national protocol is 'aimed at local authority children's services, local care providers (fostering services, children's homes and other arrangements), police forces, Youth Justice Services (formerly YOTs), the Crown Prosecution Service (CPS) and HM Courts and Tribunal Service (HMCTS), local Youth Panel (Magistrates), and local health services including mental health. Its key purpose is to encourage and provide the framework for these agencies to co-develop local arrangements to reduce the unnecessary criminalisation of looked-after children and care leavers' (The *National Protocol on reducing unnecessary criminalisation of looked-after children and care leavers* 1.1. p4.)

The protocol aims to avoid the prosecution of Children in care and Care leavers wherever possible and appropriate, by encouraging a response to incidents which reduces the likelihood of criminalisation, offending or reoffending, through promoting:

- An understanding of trauma and attachment and their impact on neurodevelopment and behaviour amongst all key professionals.
- An understanding of where children (UK as well as foreign nationals) may have been coerced and subsequently criminally exploited (for example, through running county lines or in cannabis cultivation).
- The use of positive parenting whilst in care.
- Learning from incidents.
- Listening to children and young people's voice/views and using this to inform practice.
- The development of strong understanding of local data and circumstances.
- Use of restorative approaches.
- And an attitude where all professionals ask themselves '*would such behaviour lead to an arrest if the child had been living with their family?*'

It aims to:

- Encourage local authorities and children's services trusts to implement the protocol between care providers (fostering services, children's homes and all other arrangements), police forces, Youth Justice Services (YJSs), the Crown Prosecution Service (CPS) and HM Courts and Tribunal Service (HMCTS), local Youth Panel (Magistrates), health services, and other authorities in the area, or where they place children, so agencies respond consistently and share necessary information when incidents occur.

- Encourage local authorities to include or refer to this protocol in their 'local offer' to care leavers.
- Encourage health commissioned services to provide enhanced high quality mental health assessments and support to looked after children and young people as a basis to all-health planning, given that research shows that they have a higher level of such needs than the general population.
- Provide the key principles and core for the development of arrangements that ensure that looked-after children and care leavers get the same protection from criminalisation regardless of where they live or the type of placement they are living in (implementation should be underpinned by strong interrogation and use of all available data, contributing to the area's joint strategic needs assessment).
- Ensure a degree of consistency across the country by offering a common reference and core for all areas' arrangements.

*(The National Protocol on reducing unnecessary criminalisation or looked-after children and care leavers 1.10. p6-7.)*

# Introduction

This protocol represents a multi-agency approach to prevent and reduce offending by Children and young people in care and Care leavers. It has been designed to provide an overarching set of principles to inform the processes that will ensure that any child or young person in care or care leaver within the region is afforded the same protection and consideration, whatever their home local authority. This applies to all placement settings and should include all children and young people in care, those who are in kinship care and those living independently, as well as those in residential and foster care.

The main aim is to ensure that children and young people in care are kept out of the criminal justice system wherever possible and can access appropriate support, and that those who do enter it are provided with services that reduce the likelihood of them reoffending. Whilst this protocol applies to South Gloucestershire, it has been developed in line with the national protocol and draws on models used elsewhere.

This protocol aims to reduce the criminalisation of children and young people in care and care leavers by encouraging the use of alternative resolution approaches wherever possible within the care setting, in response to low level incidents.

Foremost amongst these are:

1. Police **Outcome 22** defined as:

*Diversionary, educational or intervention activity, resulting from the crime report, has been undertaken and it is not in the public interest to take any further action.*

For Outcome 22 to be considered the decision making should be clearly documented as to what *education and diversionary activity* has been put in place to help address the child's offending behaviour and why the Officer in the Case (OIC)

believes this is a more effective outcome than out of court disposals or charge.

Outcome 22 is to be used where no further action is taken but diversionary action has been undertaken to address offending behaviour or prevent further offending. This is not currently available in Avon and Somerset police area.

In Avon and Somerset, most cases (exception being police led Community Resolutions) come to the YJS Out of Court Resolution Panel (OOCR) co-chaired by Police and YJS. The option of Outcome 22 is used for a **Deferred Caution** (where there is an admission of guilt). **Deferred Prosecutions** (where evidential threshold is met, but no admission of guilt for 18–25-year-olds) can be used for older children.

The Child Gravity Matrix (NPCC, 2023) is a triage tool to support decision making at panel (and for officers), to assist in deciding the most appropriate outcome or disposal for those children and young people, under the age of 18 years who offend. This matrix reflects the breadth of options available to the decision maker both statutory (caution, conditional caution or prosecution) and non-statutory (community resolution, deferred prosecution, deferred caution, voluntary diversionary activity).

Disposal decisions are based on the offence committed, taking into account any aggravating or mitigating factors, such as the child or young person(s) previous offending history and any known vulnerabilities or needs. In addition, where the victim's views are obtainable, these should be taken into account. In relation to vulnerability, being a **child in care** is a mitigating factor.

2. **Restorative Justice** is a:

*process where a victim can meet with and/or inform the child of the impact of their behaviour and the child is given an*

*opportunity to explain their circumstances and behaviour, take some responsibility for their actions and, where/if possible, make amends. Restorative justice does not apply simply in the criminal justice arena, it has been shown to be successful in many other areas of potential and actual conflict. Restorative Justice activities are shown to be more successful when they form part of a wider restorative approach.*

This document sets out the roles and responsibilities of agencies in managing and reducing the offending, and increasing protection, of children and young people in care and care leavers.

It is hoped that the principles contained within this document will help to ensure a consistent response, aiming to strike a balance between the rights and needs of victims, the rights and

needs of children and young people in care and care leavers, the rights of families, staff and foster carers and the decision to involve the police and/or Crown Prosecution Service.

This protocol underlines the importance of regular and effective liaison between children's homes' staff and managers, foster carers, children's social care, commissioners, early help and crime prevention services, families, education providers, youth justice services and police, in fostering good relationships and working together to reduce the criminalisation of children and young people in care.

The primary objective is for agencies to work together to reduce the criminalisation of children and young people in care, prioritising the welfare, safety and well-being of children.



## Scope

This protocol covers the entire South Gloucestershire area, and all out-of-area residential placements in use by South Gloucestershire Council, and encompasses the following:

- Children's residential units and homes (Local Authority and Independent)
- Foster carers (LA, Independent & Kinship)
- Children's Social Care and wider commissioned partners
- Early Help and crime prevention services
- Avon and Somerset Constabulary
- South Gloucestershire Youth Justice service (YJS)
- Crown Prosecution Service (CPS)
- Her Majesty's Courts & Tribunals Service (HMCTS)

Whilst the protocol does not specifically apply to education partners, the important role that schools and education providers play in partnership working arrangements is recognised.

It covers incidents that occur:

- In the child's place of residence committed by children and young people who reside within that care setting
- Against the care setting and/or the carers and/or the workers within it and/or any other young person who resides there.

This protocol supports the Department for Education Quality Standards for Children's Homes and Children's Homes Regulations, which recognise that each children's home has a responsibility of care for a young

person with their welfare interests being paramount. Both documents support that each Children's home must have a clear written behaviour policy that all staff understand and apply at all times, which includes supporting positive behaviours, de-escalation of conflicts, and policies on discipline, control and restraint.

Consequences of unacceptable behaviour should be made clear to staff and young people and must be appropriate to the emotional age, understanding and individual needs of the young person.

Regulation 35 of the Children's Home Regulations requires that the registered person should, in partnership with their local police force, agree procedures and guidance to reduce unnecessary police involvement in managing behaviour and criminalisation of behaviours.

There are two types of children's homes, those run by the local authority and independent children's homes. Independent homes may receive children from anywhere across the country and whilst the receiving local authority area should be informed of these young people they will not necessarily have detailed information on each child. The placing authority remains the responsible 'corporate parent' for the child, not the 'host' authority. In addition, young people are placed with Independent Fostering Agencies. These young people can be placed by both 'outside' local authorities and local ones.

Guidance should also be provided to foster carers (both local and independent) with regards to management of behaviour and the resolution of incidents in agreement with the allocated social worker, consistent with this protocol.

## Key Principles

Every effort should be made to avoid the unnecessary criminalisation of children and young people in care and care leavers. It is every professional's responsibility, when working with children and young people in care and care leavers, to strive to understand the lived experience, to take a trauma-informed approach and understand the underlying causes of a young person's behaviour.

Whilst the aim of the protocol is to reduce the criminalisation of children and young people in care and care leavers, it should also be remembered that victims have a right to be protected from all types of offending.

Therefore, it is important that the rights and needs of victims are given full consideration in any decision-making process relating to the offending of a child or young person in care.

**Restorative approaches** should underpin any response, and the views of the victim or communities affected should be considered. All professionals should pursue an integrated multi-agency approach to reduce the offending and criminalisation of children and young people in care and care leavers.

Those children and young people in care and care leavers already within the criminal justice system also need protection from escalation and these principles apply to them equally.

All professionals have a duty to ensure that any additional needs presented by children and young people in care and care leavers, such as those with mental health, learning difficulties or speech and language difficulties, receive an appropriate response to their behaviour.

Councils have the key responsibility for ensuring their children are protected from offending and criminalisation and should ensure that work is effective across social care and with criminal justice partners to achieve this.

Corporate Parenting Boards together with Local Children's Partnership must be confident that they have an accurate picture

of offending by children in their care and care leavers and should ensure systems are in place to identify all those who are, or are at risk of, offending whether placed within the home authority or outside.

It will be an expectation that staff and carers of children and young people in care, including foster carers (LA, Independent or Kinship), will strive to manage challenging behaviour at the placement, by way of internal resolution without the involvement of police wherever possible.

When this policy has been applied and police have attended, for instance where there was concern about immediate safety, then the police are able to use their discretionary powers, allowing the care setting to deal internally using restorative principles where appropriate.

In cases of more serious offending, police decision-making processes will apply.

The good practice principle here is for procedures to allow for a 'cooling off' period, for decisions to be reached in 'slow time' and informed by key workers/officers having considered all factors and information.

In cases investigated by the police, the preference is for interviews to be conducted on a voluntary attendance (VA) basis, with an appropriate adult arranged by the home or relevant professional.

Care providers should have plans in place to allow the child to be cared for within the home.

The police will only arrest when there is a need to secure evidence that would otherwise be lost, or where the offence is so serious that an arrest is justified. The decision to arrest is based on criminal justice reasons, not as a response to accommodation problems. Taking a child into police detention should only ever be a last resort and the circumstances mean there is no other option.

If there is a named police link officer for the residential setting that officer should be involved in the decision-making process. The

link officer will maintain regular contact with the care setting and can provide ongoing

advice, but crimes should not be reported directly to them.

## Response to Specific Incidents

### Deciding whether to involve the Police.

Staff and carers need to consider the nature and seriousness of the incident before deciding whether to involve the police immediately, at a later stage, or whether to involve them at all. (See appendix A and B). Children and young people should have individualised behaviour management plans where necessary and these should outline how residential staff or foster carers will respond when behaviours escalate.

Any incident reported to the police which amounts to a crime will be recorded against an identified victim. Understanding this should allow managers, both in the care setting and within children's social care, to make informed judgements as to which incidents they wish to report to police. The following principles will underpin this decision-making:

- **Wishes and best interest of the victim**
- **Nature and seriousness of the allegation**
- **Severity of any injury sustained/nature of threat received by the victim**
- **Previous incidents of a similar nature by the same child or young person**
- **Previous relationship between victim and offender**
- **Previous behaviour or offending, bullying/peer pressure/duress**
- **Probability of a repeat incident**
- **Availability of alternative courses of action, e.g. restorative approaches with the consent of the victim, referral to the Youth Justice Service**
- **Level/value of damage caused**

## National Crime Recording Standard

**Any offences reported or referred to Police will be recorded by the Police in accordance with the National Crime Recording Standard (NCRS).**

National Crime Recording Standards governs the way in which the police record crime. Under this standard, the police will record an incident as a crime (notifiable offence) against an identified victim if, on the balance of probability:

- a) The circumstances as reported amount to a crime defined by law (the police will determine this, based on their knowledge of the law and counting rules), **and**
- b) There is no credible evidence to the contrary.

Crimes are often reported by individuals acting on behalf of victims. These may be referred to as 'Third Party' reports and commonly such reports include the following:

- a) Persons acting in a professional capacity e.g., doctors, nurses, social workers, and teachers reporting crimes, (often of a safeguarding nature), on behalf of victims of any age.
- b) Parents or Carers acting as a guardian or responsible adult, reporting crime in the best interests of and/or to ensure that a child, or young person or adult at risk has appropriate access to police services.

When such persons report crimes, they should always be regarded as acting on behalf of a victim.

Where there is no doubt as to their status and/or position or the veracity of their report, those reports must be recorded as crimes.

Such recording must occur regardless of whether the victim has given their permission for the reporting individual to speak to the police and irrespective of whether the victim subsequently confirms that a crime has been committed.

## Different Levels of Incident/Crime

This protocol identifies three levels of incident and outlines the expectation of how each level should be dealt with:

1. Low	2. Non-serious	3. Serious
Internal Resolution	Either way dependent on circumstances	Report to the police
<b>Examples</b>		
<ul style="list-style-type: none"> <li>Minor criminal damage (broken crockery, low value property damage)</li> <li>Assaults resulting in minor injury (grazes, scratches, minor marking of skin, minor bruising)</li> <li>First occasion of possession of class B / C drugs (see below)</li> </ul>	<ul style="list-style-type: none"> <li>Second occasion of possession of class B/C drugs (see Low as well)</li> <li>Possession of Class A drugs (see Low as well)</li> <li>Persistent level 1 type behaviours</li> <li>Series of minor thefts and/or of substantive value</li> <li>Minor, but not superficial, cuts of a sort likely to require medical treatment (e.g. stitches)</li> </ul> <p><i>This list is not exhaustive but gives examples only. In each case a risk assessment will need to be used to determine the seriousness of the incident concerned.</i></p>	<ul style="list-style-type: none"> <li>Immediate serious physical harm</li> <li>Substantial damage to property belonging to home /provider/ employee,</li> <li>Significant disorder within the home or placement</li> <li>An incident has occurred that is serious in nature i.e. allegation of sexual assault or sexual exploitation (NB disclosure of past sexual abuse or exploitation does not require a 999 response).</li> </ul> <p><i>A risk assessment should inform the decision to take this action.</i></p>
<b>Responding to incidents</b>		
<p>The use of restorative approaches is strongly recommended, as research has shown Restorative Justice to be effective in reducing repeat behaviours, enabling the victim to move on from the incident and increasing the child's understanding of harm caused.</p> <p>There may be circumstances where a Level 1 incident might warrant police involvement, for example a prolonged incident or where a child in care has committed the same behaviour many times and the setting has advised that any further repeats would result in police involvement. Contact should be made on any contact agreed number or, alternatively, there is the option to call 101.</p> <p>The setting, in liaison with the child's social worker or PA, should consider whether an additional referral for advice, guidance and support is necessary.</p> <p>Substance use concerns can be addressed via referral via Compass to YPDAS (Young People Drugs and Alcohol Service) in S Gloucestershire.</p> <p>For substance use concerns (Class A, B, C and alcohol) consider also a Youth Alcohol and Drugs Diversion (YADD).</p>	<p>These incidents should be reported to the Registered Manager, who has the responsibility for identifying the appropriate course of action and use the local risk assessment process that the setting has in place.</p> <p>Staff within the home should also notify the child/young person's social worker or PA at the earliest opportunity.</p> <p>Where level 2 incidents occur within a foster placement, the foster carer should contact the social worker, the supervising social worker or the out of hours duty officer for advice on the appropriate course of action. The foster carer and/or his/her family members may be the victim and it is important that their views are taken into consideration when deciding whether to involve police. For both settings it is important to avoid any unnecessary reporting of incidents to the police. Where a victim wishes for formal police involvement or the Registered Manager or social worker/PA has considered it appropriate contact should be made with Police for referral to YJS via agreed Caution Panel process.</p> <p>For substance use concerns (Class A, B, C and alcohol) consider YPDAS (see Low), Youth Alcohol and Drugs Diversion (YADD) or Caution Panel process.</p>	<p>A 999 response is always required where children/young people and/or staff and/or property are at risk of any of the following:</p> <ul style="list-style-type: none"> <li>Immediate serious physical harm</li> <li>Substantial damage to property, or</li> <li>Significant disorder within the home or placement</li> <li>An incident has occurred that is serious in nature i.e. allegation of sexual assault or sexual exploitation (NB disclosure of past sexual abuse or exploitation does not require a 999 response).</li> <li>A risk assessment should inform the decision to take this action.</li> </ul> <p>A member of staff within the residential home should contact the police using 999. Foster carers should also call 999 as well as contacting the local Emergency Duty Team for further support. Social workers/PAs should be informed as soon as is practicably possible.</p> <p>Level 3 offences which do not require an immediate response should be reported on 101.</p>

## Factors to be considered

*see the CPS 10 point checklist for offences in children's home – appendix C*

- Wishes and best interest of the victim
- Nature and seriousness of the allegation
- Severity of any injury sustained/nature of threat received by the victim
- How much the incident was intentional or accidental
- Previous incidents of a similar nature by the same child or young person
- Previous relationship between victim and offender
- Previous behaviour or offending, bullying/peer pressure/duress
- Probability of a repeat incident
- Appropriateness of police action/court proceedings
- Future best interests of all parties concerned
- Message sent to other young people/confidence in being able to report crimes and in knowing they may not result in court proceedings
- Availability of alternative course of action e.g. restorative approaches, referral to Youth Justice Service
- Level/value of damage caused
- Requirement for formal investigation e.g. insurance claim requires a crime reference.

**The over-arching principle is that immediate police attendance should only be used in situations when the level of risk cannot be safely managed by staff/carers.**

## Police Roles and Responsibilities

Any offences reported or referred to Police will be recorded in accordance with the National Crime Recording Standard (NCRS) as set out previously.

Where this policy has been applied and police have attended, for instance where there was concern about immediate safety, then the police are able to use their discretionary powers allowing the care setting to deal internally using restorative principles where appropriate.

Neighbourhood Policing, Topaz and missing person's co-ordinators have a key role to play with Children's Homes and Foster Carers and good working relationships should be established to ensure the best outcomes for children and young people in care. The Police should establish regular liaison meetings with both local authority and private

children's homes in order to implement the principles of this protocol.

When Police complete an investigation into a child, the outcome of the case will be subject to an evidential review by a suitably trained officer. Police use a national Gravity Factor system to assist in this process. Any case with a Gravity Factor of 3 or below should be submitted to the Youth Out of Court Disposal team via a Form 143 for consultation and consideration of the appropriate outcome.

The decision-making process for children and young people in care will include contact with the care manager and social worker or PA (for fostered children and young people in care/care leavers).

In cases where a child or young person in care declines to make an admission to an offence but does not deny it, the investigating



officer should also refer to the Youth Out of Court Disposal Team for advice.

Where a child or young person in care denies the offence, or in some cases where they decline to make an admission, or where the offence is serious enough to merit consideration of prosecution, then Crown Prosecution Service guidance on decisions to prosecute looked after children ('Crown Prosecution Service (CPS) 10 point checklist

for offences in Children's homes' - appendix C) should be actively applied. Section 9 of this protocol outlines the steps to be followed by the CPS for offences in children's homes.

It is the responsibility of the local authority and the police to proactively assist the Crown Prosecution Service in reaching informed decisions in consideration of children and young people in care cases.

## **Support to Care experienced young people and adults in custody and/or subject to criminal investigation and trial**

When a young person who is Care experienced is arrested or subject to criminal investigation it is important that the involved Police officers are aware that the young person could be eligible for, and may already be in receipt of support services from the local authority. This could include the provision of a Personal Assistant (PA). The legal definition of a Care leaver, and the responsibility of the Local Authority to provide ongoing support is set out in 23C of the Children Act 1989. This was further extended to include all Care leavers up to the age of 25 in the Children (Leaving Care) Act 2000. The extent of support a young person is eligible for depends on at what point, and for how long, they were in care. Most young people would know if they are eligible for Care leaving services and what this support looks like, but if there is any confusion this resource can be used: [Am I a care leaver? - Coram Voice](#) or the Local Authority contacted.

How should Police Officers check to see if a young person is a Care Leaver?

When arresting, questioning or investigating any adult under 25 Police officers should give consideration as to if they may be Care experienced and eligible for support services. There are two ways they can find this out:

- By asking the young person if they have spent time in Care
- By checking the young person's record to see if there is any flag to indicate that they were a Child in care when they were under 18.

What should police officers do if they identify a young person is a Care leaver?

- Officers can enquire if the young person is currently open to the Care Leaver's Team and has an allocated PA.

If the young person has an allocated PA they may wish to contact that PA to seek support. It would also be useful for the PA to be made aware by officers that the young person has been arrested or is subject to criminal investigation. The PA will then be better able to co-ordinate support around the young person.

- Officers can make any young person aware that even if they are not currently open the Care Leaver's Team, if they are under 25 and were previously in Care, they are able to re-refer themselves for support at any time.

What kind of support can a PA offer?

PAs offer all sorts of support to a young person. This can include but is not exclusive to: support in respect of housing, support in accessing employment, education and training and support accessing other services. They often have established relationships with our young people and can be a good point of contact, particularly if there are concerns about a young person's wellbeing.

Where can you make contact with the Care Leavers team: [Care.Leavers@southglos.gov.uk](mailto:Care.Leavers@southglos.gov.uk) or 01454 864522 (during office hours). The Emergency Duty Team can be contacted via 01454 615165.

## Recording of Incidents by Police

Offences that come to police notice through involvement in children's home must be recorded in line with NCRS criteria (see 5.1.)

A crime should be recorded as soon as the decision to do so has been made (or as soon as possible afterwards).

## Information Sharing

The Crime and Disorder Act 1998, Section 115, ensures that all agencies involved in preventing offending have the power to disclose information for the purpose of preventing crime and disorder. This protocol sets out the principle that effective joint working and an integrated approach between services is vital in the prevention of offending and protection of vulnerable young people. It

is therefore necessary that agencies develop an environment of information sharing that demonstrates to young people that agencies work together and keep each other informed.

## Prosecution of Incidents by Crown Prosecution Service (CPS): Offending Behaviour in Children's Homes

The decision to prosecute Children in care for low level offences committed within a children's home is a major decision and should be taken by a youth specialist who has attended the CPS Youth Specialist Course and is at least a Senior Crown Prosecutor.

The youth specialist should apply the CPS guidance on Offending Behaviour in Children's Homes in conjunction with the

Code for Crown Prosecutors, CPS Policy Statements and legal guidance.

The police are more likely to be called to a children's home than a domestic setting to deal with an incident of offending behaviour by an adolescent. The Crown Prosecution Service should bear this in mind when dealing with such reports.

It is important that everyone is able to feel safe in the place where they live, whether that



is in a family or children's home, and to have confidence in the Criminal Justice System to intervene and protect them where necessary.

A criminal justice disposal, whether a prosecution, or non-charge disposal should not be regarded as an automatic response to offending behaviour by a Child in care or Care leaver, irrespective of their criminal history. This applies equally to a persistent offender and children of 'good character'. A criminal justice disposal will only be appropriate where it is clearly required in the public interest.

Each home must have a written Behaviour Management Policy which sets out the measures of discipline which may be used in the home and the means whereby positive behaviour is to be promoted. The home

should develop an individualised plan for each young person, in line with the home's Behaviour Management Policy. A copy of this policy and a statement from the home setting out how the policy has been applied to the particular incident should accompany any request for advice on charging.

Police Officers and their decision – making gatekeepers should consider all the circumstances surrounding the offence and the child/young person before reaching a decision to prosecute and should apply the Code for Crown Prosecutors and all relevant CPS Youth Policies.

Decisions should take account of the views of the key worker, the social workers/PAs and the team involved in the care of the child/young person.

## Illegal Substances

The use of illegal or psychoactive substances by young people, as defined under the Misuse of Drugs Act 1971 and The Psychoactive Substances Act 2016, is of serious concern for their emotional, mental and physical well-being, and in terms of criminal offences and intelligence.

Each children's home and fostering service will have its own drugs policy, with the key focus on how to ensure that appropriate education and treatment services are in place to support the young person.

Information regarding repeated drug use within the home or concerns about drug dealing should always be shared with the police. It is important that this is shared in a timely manner. Alternatively, there is the option to call 101 or 999, dependent on circumstances.

Staff should always consider the nature and seriousness of any incident before deciding which route to take and should consult with a senior manager before proceeding with a

formal police complaint unless there is an immediate significant risk of harm.

Staff in children's homes or other settings are lawfully allowed to confiscate drugs or unknown substances from children in their care. If having followed the protocol the police are to be called to deal with the child in care, then the home should store the substances securely and contact police to attend as soon as possible to collect the item. An entry should be made in the home's log, where applicable, and a signature obtained from the attending officer.

If the home or carer deals with the child without involving the police, then a recognised procedure should be in place to allow for the destruction of the drug as soon as possible. A log of seized items should be kept and disposal should be witnessed by another member of staff or suitable person, and the log should be signed by both people. The log should contain a description of the drugs. Best practice will be for a photograph of the seized item to be taken.

A referral to the local Youth Alcohol Drugs Diversion scheme (YADD) via the Police YADD form can be considered at this stage

or referral to the S Gloucestershire Young Peoples Drugs and Alcohol Service (YPDAS) via Compass.

## Recording of Incidents

### By Residential Staff

All incidents require accurate recording within an incident log for residential children's homes, so as to provide informed histories on the children and young people in care, assisting with assessments and liaison meetings. All incidents must be recorded in the personal file of each young person and

entered in the home's day book/incident log. The young person's social worker or PA should be informed of the incident. Risk assessments should be reviewed. This provision also applies to incidents discussed through any regular liaison with local Neighbourhood Policing Teams.

### By Foster Carers

It is necessary for incidents within foster care placements to be accurately recorded, so as to provide informed histories on the children and young persons looked after, assisting with assessments and liaison meetings.

All incidents must be recorded in the personal file of each young person and reported to the supervising social worker and the child's social worker/PA (using the Notifiable incident form). Risk assessments should be reviewed.

## Placements out of area

Some of our children and young people in care reside in out of area placements. The equivalent local protocols will apply in respect of police involvement and decision-making for behaviour in those care settings. When commissioning an out of area placement, South Gloucestershire Council will seek confirmation that the setting is committed to using non-criminal responses to behaviour in

the care setting. This commitment will form part of the placement contract.

Some children and young people in care from other areas are placed in settings in South Gloucestershire. This protocol applies to those settings in respect of all the young people that they accommodate.

## Restorative Justice and the Restorative Approach

Restorative Justice (RJ) has been shown to be a constructive way to repair harm and to enable the victim and the offender to move forward. Best practice suggests that RJ responses to specific incidents are more effective when they occur in the context of a more widespread restorative approach, and

where both parties perceive the facilitator to be a neutral party. Restorative practices include opportunities for the young person to repair harm that they have caused.

For low level incidents it may be suitable for another staff member to facilitate the RJ

meeting, provided the young person has confidence in the worker's impartiality. For

more serious incidents an external facilitator could be accessed.

## Governance and Monitoring

South Gloucestershire Council has a responsibility to ensure that effective local arrangements are in place to prevent and reduce offending by young people. As such, that it will provide oversight of the effectiveness of this protocol.

The Youth Justice service will provide annual data to the Corporate Parenting Board to monitor the rate, frequency and level of offending by children and young people in care and care leavers so agencies can be satisfied that whenever possible a non-criminal response is being used for behaviour in fostering and residential settings.

*The different agencies that work under this protocol will collect their own data to monitor the effectiveness of their work to prevent offending by children and young people in care and care leavers.*

This data can be scrutinized at the Corporate Parenting Board, as well as reviewing the effectiveness and practice issues related to these procedures.

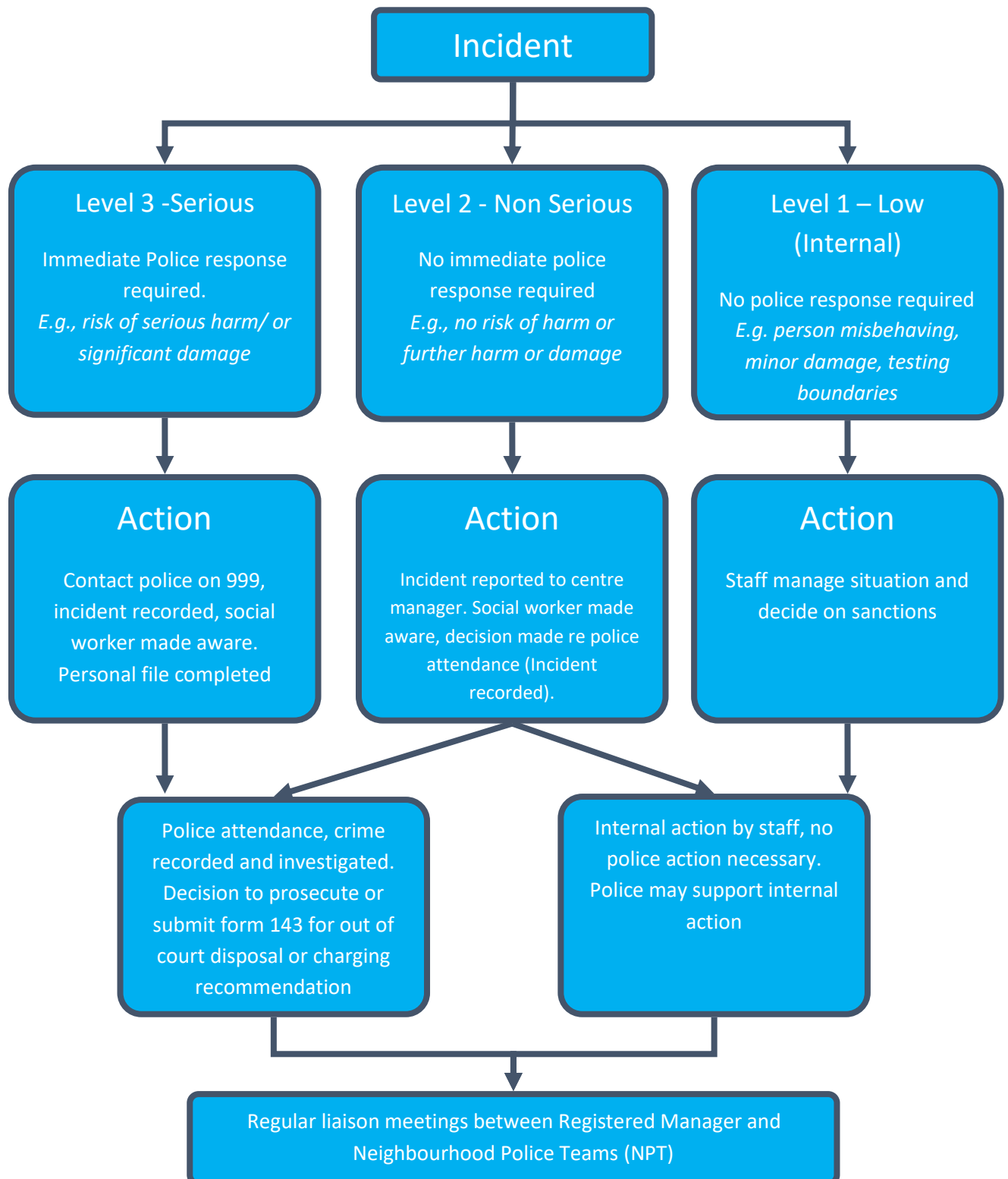
## Review

This protocol will be jointly owned and reviewed.

Next review date: April 2027

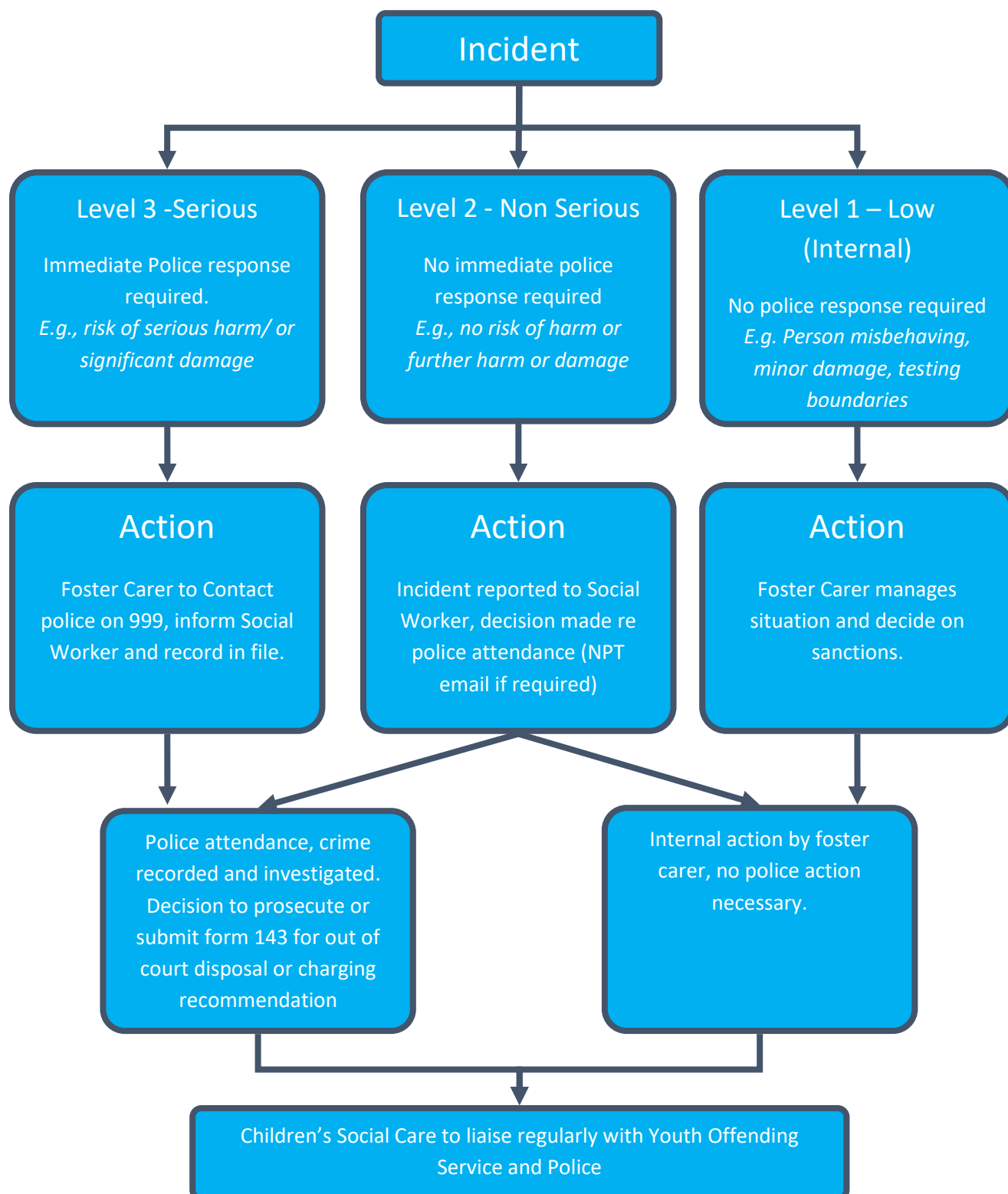
## APPENDIX A: CHILDREN'S HOMES' DECISION TO INVOLVE POLICE

This policy must be followed when any member of staff is considering contacting the Police.



## APPENDIX B: FOSTER CARERS' DECISION TO INVOLVE POLICE

This policy must be followed when a Foster Carer is considering contacting the Police.



## **APPENDIX C: Crown Prosecution Service (CPS) 10 point check list for Offences in Children's homes**

Officers who deal with children from care homes are required to receive information in relation to the 10 questions below before any decision on charge will be made by CPS reviewing lawyers.

### **To be considered by social care staff**

1. Disciplinary policy of the children's home
2. Why have the Police been involved and is it agreed in the policy? There should be an explanation from the home regarding their decision to involve the Police which should refer to the procedures and guidance on police involvement
3. Any informal action / disciplinary action already taken?
4. Any apology / reparation?
5. Victim's views?
6. Social workers views? The views of the key worker, social worker, counsellor or CAMHS worker on the effect of the criminal justice intervention on the youth, particularly where the youth suffers from an illness or disorder.
7. Care plan for Child in care? If the child in care wishes it to be considered, information about the local authorities assessment of his / her needs and how the placement provided by the home is intended to address them. The local authority should be able to provide this information as it is an integral part of the care plan for the child in care.
8. Recent behaviour / incidents re the child in care? Information from the home about the recent behaviour of the child, including similar incidents and any incidents in the child's life that could have affected their behaviour, any history between the child and the victim, history of the incident and any action under the disciplinary policy of the home.
9. Information about the incident from the child in care (interview or other)?
10. Aggravating and mitigating factors.