

ROTHERHAM YOUTH JUSTICE SERVICE MULTI-AGENCY PROTOCOL

To support the decriminalisation for Looked After Children



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EXECUTIVE SUMMARY

Most looked-after children and care leavers have experienced adverse childhood experiences and trauma prior to coming into care. With placement moves and education disruption, looked after children are less likely to have consistent, healthy, and meaningful relationships with adults who are supportive and loving.

Without these relationships, children and young people in care are often left hugely vulnerable to criminal and sexual exploitation and the use of illegal substances. As a result, sadly, they are more than twice as likely to be cautioned or convicted of an offence compared to their peers. With less than one per cent of children in England entering the care system, half of the children detained in Youth Offending Institutes are, or have been, within the care system. Looked-after children and care leavers from Black and minority ethnic backgrounds are at an even bigger disadvantage. More than half of the children in prison are or have been in care, with over half of them being from Black and minority ethnic backgrounds.

Rotherham Council as corporate parent, Rotherham Youth Justice Partnership Board and wider partners want to be part of turning this curve and committing to work to support best outcomes for our Children in Care. This protocol sets out the roles and responsibilities of each group involved in the care of looked-after children and care leavers in reducing their involvement in crime – because each and every one of these groups has their part to play in protecting these vulnerable young people from a life of crime. This includes children's home carers, foster parents, police officers, the Crown Prosecution Service, health services and local authorities.

The organisations who have signed up to this protocol have agreed to the following key principles:

- Diversion from the criminal justice system is at the heart of this protocol
- Children should be seen as children.
- Supporting desistance
- Listening to and learning from children and young people
- Agencies asking, 'is this response good enough for my child?'

Through this protocol, we will be able to work better together, across the borough, reduce the number of young people who have been within the care system being criminalised; and then being further drawn into crime; and instead, divert them instead towards a more positive future.



David McWilliams

Chair of Rotherham Youth Justice Partnership Board
Assistant Director, Early Help Business Support & Family Engagement

I. INTRODUCTION

‘We have made significant strides in reducing the criminalisation of children and young people...This is a credit to the agencies and practitioners involved. However, although the vast majority of looked-after children and care leavers do not get involved with the justice system, they remain over-represented compared to others in the criminal justice system...This is a challenge we must meet.’

The National Protocol on Reducing Unnecessary Criminalisation of Looked-After Children and Care Leavers 2018.

This Rotherham local multi-agency protocol that seeks to reduce the unnecessary criminalisation of Rotherham’s looked-after children and care leavers.

This protocol reflects the principles and ambition of the National Protocol on Reducing Criminalisation of Looked-After Children and Care Leavers. The national protocol describes ‘what’ needs to happen across the country. This local protocol complements this by setting out ‘how’ the national protocol will be implemented locally, and reflects the local structure of services, care populations, stakeholders, governance and decision-making arrangements.

The National Protocol on Reducing Unnecessary Criminalisation of Looked-After Children and Care Leavers 2018 set out a clear position the protocol must be:

‘A co-developed, whole system approach... That should include prevention, early intervention and appropriate response where children and young people do offend.’

The National Protocol on Reducing Unnecessary Criminalisation of Looked-After Children and Care Leavers 2018.

This protocol represents Rotherham’s multi-agency partnership commitment to reducing the unnecessary criminalisation of looked-after children and care leavers and includes the contribution of relevant local agencies and staff. Although not an exclusive list, this includes: Rotherham Council Children’s Services; Youth Justice Services; Crown Prosecution Service; South Yorkshire Police; HMCTS; the local Youth Panel (Magistrates); Care Services (including, kinship, fostering, and Rotherham and independent sector residential children’s homes); Care Leaver services; and any other private or voluntary organisations commissioned to support looked-after children locally.

2. KEY PRINCIPLES

2.1 Diversion from the criminal justice system is at the heart of this protocol

Every effort should be made to avoid the unnecessary criminalisation of looked-after children, including through early intervention and prevention services. (See 'Overarching Key Principles section of the National protocol). This is in recognition that many looked after children have experienced abuse and trauma, affecting their emotional and behavioural development, potentially making them particularly vulnerable to involvement in the criminal justice system, and that criminalisation can be a barrier to successful transition to adulthood and future life prospects.

The primary objective is for agencies to work together to prevent and reduce offending and the unnecessary criminalisation of looked-after children, accepting that children's welfare and safety are paramount. Whilst this protocol aims to prevent and reduce offending and avoid criminalisation of looked-after children, victims have a right to be protected from all types of offending. Therefore, where looked-after children do offend, it is important that the rights and needs of victims are given due consideration in any decision-making process relating to the offending of children.

'Victims and communities have a right to be protected from offending and have their needs and interests taken into account in decisions on resolutions to offending.' The National Protocol on Reducing Unnecessary Criminalisation of Looked-After Children and Care Leavers 2018

De-escalation and restorative approaches should underpin response to negative behaviour to help avoid the prosecution of looked-after children and care leavers (up to the age of 25) wherever possible. Restorative Justice (RJ) is a process whereby the victim has an opportunity to be heard and state the impact of the behaviour, and the offender has the opportunity to understand the consequences of and take responsibility for their actions. Such RJ approaches can take place informally within the care placement in response to an incident (where police involvement is not required) or as part of a recognised police outcome where it is considered to be appropriate.

2.2 Children should be seen as children.

Children in care and in the criminal justice system face judgement, punishment and statutory outcomes while having experienced loss, shame, and trauma through neglect, sexual or physical abuse and emotional abuse. This behaviour from such children is often an indicator of their trauma, both past and present. These are children learning to manage complex emotions alongside complex systems and are in a system expecting them to develop independence and maturity when they first need the opportunity to trust and manage structure (trauma informed child development).

2.3 The aim is to support desistance

This means helping develop the pro-social identity of children to achieve positive outcomes. Evidence has shown that key elements for helping young people to stop offending are a positive social identity and a positive outlook. To foster this, trusted and meaningful relationships are key. The young person also needs to be afforded chances to learn from mistakes (without accepting the behaviour but asking what they have learnt from this and how they want to move forward). A restorative approach that both identifies the harm caused and allows the young person to let go of the painful feelings of shame is key to supporting the development of an ongoing positive outlook. The young person also requires access to opportunities to develop.

2.4 Listening to and learning from children and young people

Listening to, learning from, and acting on children and young peoples' voice is vital to having effective policies and support in place to avoid criminalising children and young people. It is also vital to making sure the correct support is put in place to help children and young people resolve problems and avoid future contact with the criminal justice system.

It is every professional's responsibility when working with children to strive to understand the underlying causes of a young person's behaviour. Understanding the needs and perspective of the child or young person at the centre of an incident and listening to their voice should be central to all agencies practice and their response to incidents involving looked-after children and care leavers.

2.5 Agencies asking, 'is this response good enough for my child?'

Corporate parenting refers to the shared responsibility across the council and wider partners to ensure that children and young people in our care or leaving care are supported to thrive. The local authority has a unique responsibility to the children we care for and also to our care leavers.

A trauma-informed approach must be adopted when interacting with looked after children, and carers, police officers and other professionals are encouraged to take on a corporate parent ethos and ask themselves 'would this be good enough for my child?' when responding to incidents in children's care homes and other provisions.

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. Foster carers, residential staff and carers should have the skills to manage negative behaviour, and the police should not be used for low-level behaviour management or matters where in other circumstances a reasonable parent would not involve the police.

The YJ Partnership in Rotherham actively champions the Corporate Parenting role for all Looked After Children involved with the Youth Justice Service in Rotherham and is clear that this involves advocating on behalf of these children and on assessing whether the services received have been 'good enough' and addressing any shortfalls for both individual children and for the Looked After cohort



3. VOICE OF THE CHILD

Article 13 of the United Nations Convention on the Rights of the Child, provides every child with the right to express his or her views, get information and share their ideas. The requirement for looked-after children's wishes and feelings to be taken into account is enshrined in Section 22 of the Children Act 1989. Encouraging children and young people to express their views, wishes and feelings and taking these into account, is also a key part of the corporate parenting principles to which local authorities must have regard of when exercising their functions in relation to looked-after children.

Listening to, learning from, and acting on children and young peoples' voice is vital to having effective services, policies and support in place to avoid criminalising children and young people. It is also vital to making sure the correct support is put in place to help children and young people resolve problems and avoid future contact with the criminal justice system.

This should be underpinned by the following:

- Consultation with children and young people to ensure that there is an understanding of the experiences of Looked After Children and Care Leavers in Rotherham and whether the services and structures that are designed to support them are having an impact.
- Supporting young people to develop their self-confidence, self-efficacy and identity by supporting them to improve local services through their own experiences and stories.
- An Understanding of the underlying causes of a young person's behaviour, in a trauma informed context is essential. Consequently, understanding the needs and perspective of the child or young person at the centre of an incident and listening to their voice should be central to all agencies practice and their response to incidents involving looked-after children and care leavers.
- Asking for the child or young person's view of what has happened when responding to an incident. This is an opportunity to understand the child or young person's perspective - both to inform decision making about how to respond in their best interests and to avoid criminalisation where possible. Agencies should approach these conversations with an open mind and be open to the possibility that fault might not lie at all, or in its entirety, with the child or young person.
- Children and young people should have access to a mediator outside the conflict, such as a social worker, another carer in the home or another trusted adult before police involvement.
- Children and young people's views should be asked for and be taken into account in any reports written about the incident, including police, children's homes and other social care reports.
- Children should be informed of what has been said and written about them and to have an opportunity to challenge anything they believe is untrue or unfair. Professionals should consider the long-lasting impact these reports can have on children's lives and ensure they are accurate, balanced, moderate in their use of language (for example, consider the effect of words such as "aggressive" and "violent") and include the voice of the child.
- Providing advice, information and support to secure the support of an advocate.

4. PREVENTION

Ensuring looked-after children have the right placements that meet their identified needs will significantly contribute to prevention. Rotherham YJ Partnership Board and partner agencies recognise the vital role of early intervention and prevention in reducing criminalisation of looked-after children and care leavers. This protocol reflects the ongoing commitment to services co-developing their approach that includes prevention (such as addressing cause of adverse childhood experiences and mentoring), early intervention and appropriate response where children and young people do offend.

It is recognised that caring for and managing children and young people with behaviour which can be perceived as difficult, or challenging is key to name and address. This applies to all placement types for looked-after children or care leavers. There should be a positive presumption that foster carers, residential staff and carers have the skills set to manage negative behaviour. This should have been part of their core training and skill development. The police should not be used for low-level behaviour management or matters a reasonable parent would not have called the police over.

Where a young person is placed who has struggled and there have been previous contacts with YJS and police, careful planning and agreement about what support is in place, and what worries about safety would warrant contacting the police, should be discussed and carefully considered and review as part of the placement planning and care review. This includes an agreement about how agencies should respond.

Key to understanding and tracking worries for young people is the quality of recording around incidents. All incidents must be recorded in the child's personal file. Foster carer, residential staff and carers should bear in mind the potential impact of that record on a child, and recording should be objective, non-stigmatising and trauma informed.



5.RESPONDING TO INCIDENTS

It is reported that 71 per cent of children in care who are criminalised have emotional or behavioural health concerns compared to 51 per cent of all children in care. Many looked-after children often display the most challenging behaviour due to their pre-care and post-care adverse childhood experiences (ACEs). This can be exacerbated by experiences in care and/ or other problem ongoing in their lives. ACEs are potentially traumatic events that can have negative, lasting effects on health and well-being such as:

- Verbal abuse
- Physical abuse
- Sexual abuse
- Physical neglect
- Emotional neglect
- Parental separation
- Household mental illness
- Household domestic violence
- Household alcohol abuse
- Household drug abuse
- Incarceration of a household member

These ACEs can have a significant influence on problematic behaviour and likelihood of youth justice involvement. A trauma-informed approach must be adopted when interacting with looked after children, and carers, police officers and other professionals are encouraged to take on a corporate parent ethos and ask themselves 'would this be good enough for my child?' when responding to incidents in children's care homes and other provisions.

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. Where possible the child should be referred to mental health support services.

Within Rotherham we have co-developed and agreed local arrangements, which demonstrate our partnership commitment to de-escalation and in-house management, developing and agreeing a clear framework for responding to incidents. An example is the Rotherham (Police) Juvenile Process (**Appendix 1**), which highlights roles and key point of communication.

In circumstances where an offence/incident does not pose any immediate safety risk (and where victim/s indicate that they do not wish to make statements in support of potential charge/prosecution) then **such incidents should be recorded and managed internally, without the need to involve the police**. It should be recognised that each individual case should be assessed with a regard to whether or not there is an immediate risk to personal safety, being mindful that arrest and subsequent contact with the criminal justice system brings its own risks for children. If the decision to call the police is made, then, upon the arrival of the police at the scene, a joint view (police and carer) should inform whether arrest is necessary and proportionate (**Appendix 1**).

Where arrest is considered necessary there should be a presumption to interview children in voluntary reporting suites, outside of police custody, wherever possible. Where a crime has been committed, this will be recorded by the police.

The decision regarding the outcome for the young person should be made in consultation with Rotherham YJS and Rotherham Children's Services (as corporate parent), supporting informed consideration of out of court disposal options.

Where children placed out of the Rotherham area are involved, these arrangements should include their responsible authority).

‘In circumstances where informal, community resolution is inappropriate, police should, as a matter of routine, consider diversion; from criminalisation/prosecution through discussion in local joint decision-making forums. The forum should consider if using a more substantial restorative intervention, potentially involving other agencies, is suitable.’

The National Protocol on Reducing Unnecessary Criminalisation of Looked-After Children and Care Leavers 2018.

In some circumstances where more serious offending has occurred the police will lead the investigation, and the preservation of evidence may be necessary in order to secure evidence as part of the investigation. Where there is an immediate risk to personal safety Police should be called to incidents where there is an unacceptable and unmanageable level of risk to personal safety and where it is deemed highly unlikely that order will be restored without police assistance. Immediate police response will be required for incidents of serious violence or serious dangerous disorder where children, residential staff, foster carers, or carers are at risk of immediate serious physical harm. In such situations, carers/placement providers should contact the police via the 999 system.

As highlighted above where young people with complex needs move placements careful planning and consideration of how an incident will be responded to, by all agencies including local police, should be considered as part of the placement planning and review. This is especially key when placing young people out of area, to support positive working relationships and communication.



6. PROSECUTION OF INCIDENTS IN CHILDREN'S HOMES

The police are more likely to be called to a children's home than a domestic setting to deal with an incident of behaviour by an adolescent. The Crown Prosecution Service has devised a national 10-point checklist to inform the decision to prosecute a child, (**Appendix 2**),

The 10 Point Checklist requires a systematic approach to the decision to prosecute a Looked after Child who offends in Children's Homes. The decision-maker is required to ask the following questions:

- What is the Disciplinary Policy of the Children Home?
- Why the Police have been involved and is it as agreed in the Policy?
- Has any informal / disciplinary action already been taken?
- Has there been an apology or reparation?
- What are the Victim's views?
- What are the Social Worker's views?
- What is the Care Plan for the Looked After Child?
- What is said of the recent behaviour of the Looked After Child?
- Information about the incident from the child
- Are there any aggravating or mitigating features?

Prosecutors are required to consider all the circumstances surrounding the offence and the circumstances of the youth before reaching a decision and to apply all relevant CPS policies and documents. Failure to do so may result in proceedings for judicial review:

R v Chief Constable of Kent and Another ex parte L, R v DPP ex parte B (1991) 93 Cr App R 416.

There are many reasons why a Looked After Child may offend within a Care Home, Foster Home or Residential Facility. It may be that the Children's Home is not best fit for the child, it has too many inexperienced staff, the child's Care Plan no longer fulfils their needs, the placement is unsuitable, there are difficulties in their relationship with other residents or staff, bullying or peer group pressure, the child has suffered traumatic personal events, emotional hurt, has behavioural difficulties, medical issues, grief, fear, immaturity and the absence of support from friends and family.

The context of any incidents or offending must always be carefully considered. The decision to impose a formal out of court disposal or prosecute should always be taken as a last resort after informal measures and diversions have all been fully explored and considered.

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

7.SUPPORT FOR LOOKED-AFTER CHILDREN IN CONTACT WITH THE CRIMINAL JUSTICE SYSTEM

Looked-after children who are in contact with the Youth Justice System (YJS) will have an assigned Rotherham Youth Justice Service (YJS) case worker and be under the Youth Justice Planning Framework. It is important that the care plan in place and any interventions delivered by the YJS for a child in contact with the YJS are aligned.

The child in care will be facing two allocated workers (Youth Justice Worker and a Social Worker)- both writing plans to address their needs and both making decisions about significant aspects of their life - alongside a range of other professionals involved in the delivery of these plans. Therefore, it is essential that the network around the child is working together and agreeing the direction of travel in the best interests of the child.

No plan is effective without the voice of the child. Both services should have mechanisms for gathering the voice of the child, through direct work and self-assessment forms, alongside participation forums and a Children in Care Council, both of which should be feeding back to both services to inform practice.

Despite all agencies best efforts, there will be instances where looked-after children and care leavers have to enter the criminal justice system. As per the National Protocol, where this does happen, it should be underpinned by the following principles:

If a looked after child is charged with an offence:

When a child in care is charged with an offence, it is important that they are not disadvantaged because of their looked-after status. Within Rotherham we work to ensure there are viable alternatives to a child being remanded to a secure establishment.

Rotherham will ensure that the young person is:

- Legally represented by a solicitor with expertise in youth justice.
- Supported to understand what is happening to them.
- Has their Social Worker attend court with them, particularly on the day of sentence, to ensure that the child's best interests are represented, and that custody is used only as a last resort.
- If the child has an ICTA, they should be advised and be able to attend court to further support the child.

Rotherham and local agencies have signed up and adhere to the Concordat on children in custody and with the aim of avoiding holding looked-after children overnight in police cells where possible.

If a looked-after child receives a community sentence, their social worker and YJS case manager should continue to work closely together, share information and clarify their roles and responsibilities to ensure the child receives the support they need.

If a custodial sentence is likely, the YJS worker and the child's social worker should work together to prepare the child, explaining what will happen and how they will be supported. The social worker should feed in any relevant information to the YJS ahead of them preparing the pre-sentence report.

8. THE NEEDS OF CARERS

The effect on carers following an incident can be traumatic and should not be underestimated by providers. Under Regulation 35 (3)(b) of the Children's Home (England) Regulations 2015, Registered Managers are required to speak to the staff involved about the incident within 48 hours, as part of the incident review.

Policies should reflect that at this time, enquiries into health and welfare are made in all instances and where appropriate, these should be recorded in personnel files. This includes any relevant accident records. ¹

Registered Managers and Providers have a duty of care towards their staff and this includes recognising that being involved in violent or frightening incidents is not part of most people's 'normal' experience. Offering appropriate support in a timely manner to address or reduce any ensuing effects should be part of the home's employment and/or behaviour management policy.

Providers and Registered Managers should also ensure that any issues identified as contributing to the incident are addressed, including updating care plans to minimise the risk of recurring behaviours.

For foster carers or family-based carers, the Supervising Social workers and allocated Social Workers for the children placed in their care, will play a key role in offering support and guidance, which includes opportunities to reflect and consider the impact for them as individuals. This reflection and planning for any future incidents, supports building resilience and confidence, supporting diversion from placement breakdowns or potential future criminalisation.



9. LOOKED-AFTER CHILDREN WHO GO MISSING

It is the responsibility of the corporate parent to put strategies in place to reduce the opportunity for looked-after children to 'go missing', to take immediate action to find them, collect them and bring them home 'in-house' as most parents do. Should they be unable to find them, and police are contacted, as the corporate parents, they should collect them ASAP from wherever they have been found, which minimises police contact. However, it is important to acknowledge there may be instances where the environment where the child or young person is found is unsafe for the person sent to collect them. In such circumstances, if foster parents, residential staff/carers having assessed the environment, feel unsafe then the police should assist them in collecting the child.

It should be acknowledged by all parties that regular police interactions into a looked-after child's life when repeatedly reported missing can eventually normalise police involvement. Whilst a policing response to risk and vulnerability is clearly part of a joint agency safeguarding response, the expectation of the police to intervene on every occasion of returning home late, challenging behaviour and pushing of boundaries is not effective and is not a safeguarding response in itself.

As mentioned previously, a culture of overreliance on the police to respond to minor incidents in the care placement applies equally to looked-after children being reported missing.

Within Rotherham we have the Local Rotherham Missing policy and are part of the wider South Yorkshire Missing Protocol. **missing_home_care.pdf (proceduresonline.com)** The Philomena Protocol has been launched across the South Yorkshire Police Service and aims to ensure all parties are informed on how to better prepare for missing children incidents. At the point of reporting, the level of risk and the sharing of information under existing Rotherham Child Protection Procedures should be outlined. The protocol promotes supportive engagement between the police and high-demand care placements where reporting behaviours are shown to be less than optimal. (**Appendix 4 – Philomena Protocol flow chart**).

The Philomena protocol requires a "multiagency trigger plan/find me plan" for any child who has, or it is believed will be subject to multiple missing episodes, or where there is thought to be a risk of them going missing and coming to harm. The purpose of this plan is to direct initial enquiries when a child goes missing. It will include information such as key people in the child's life; any known contact numbers, social media profiles and addresses of interest; recent missing episodes, where they were found and with whom; and vulnerabilities and risks, including any sanitised police intelligence that can be shared, and any ongoing criminal investigations. The police shall share the plan with the host authority police force when a child is placed out of area to allow an appropriate response to any missing episodes in the host area.

10. PLACEMENTS OUT OF AREA

When commissioning an out of area placement, the commissioning team will ensure that the provider is committed to following this protocol and specifically to using non-criminal responses to behaviour in the care setting. This commitment will form part of the placement contract.

When a child is at risk of coming into contact with the police, preparation work should be undertaken by the placement commissioning service with both the placement and local police (including missing and exploitation police where appropriate) to the placement about the needs of the child and young person, and agreement should be reached about how incidents will be managed, in line with this protocol. This should also cover any possible contextual safeguarding issues in relation to the local area of the placement to ensure a joined-up approach to managing any potential risks to the child or young person being placed, in terms of the area or community that they are being placed in.

It is recognised that children and young people placed outside of Rotherham are often those with the most complex needs. Careful consideration should be made by the placing Local Authority about how the cultural and identity needs of their children and young people will be met, as well as how positive narratives can be promoted about them, to avoid inappropriate or unnecessary criminalisation of children in their care.

Where a child or young person is placed out of Rotherham and is already subject to a Court Order, there should be clear communication between the placing and receiving Local Authority. The placing Local Authority should inform the local YJS that there is a child residing in their area who is subject to Court Orders. There should be clear communication between the placing and local YJS about roles and responsibilities – usually the placing YJS should retain oversight and responsibility for their child or young person but the local YJS (also known as the care taking YJS) may be asked to implement the Order.

Children and young people placed out of Rotherham will be expected to access education, either independently of or linked to the placement. The child or young person's social worker and virtual school should ensure that the identified education provision is aware of the expectations outlined within this protocol.



II. GOVERNANCE

For all agencies (Children's Social Care, YJS, CPS, Police, HMCTS, all types of care settings, Care Leaver Services, and any other private or voluntary organisations, commissioned to support looked-after children locally), working together is key to delivering shared objectives in reducing offending by looked-after children and care leavers and protecting the public.

To implement this national protocol effectively within Rotherham, key partners, including care providers, have co-developed and signed up to agreeing local partnership protocols which reflect the key principles.

This has included agreeing an accountability structure with the YJS Board in Rotherham having the responsibility to monitor the implementation and effectiveness of the protocol at regular intervals.

The Reducing the Offending of Looked After Children will be a key priority in the Rotherham Youth Justice plan and the monitoring and evaluation of targets and ambitions set in the plan is the responsibility of the Rotherham Youth Justice Partnership Board (RYJPB).

Any concerns regarding the operation of this protocol will be raised between the individual agencies in the first instance in the spirit of working together and agencies commit to resolving issues speedily and at the lowest possible level.

The RYJPB will be the forum for hard to shift problems to be debated and considered and the chair of the RYJPB will have the final say in any disputes.

This Protocol will be reviewed on an annual basis through the RYJPB.



12. INFORMATION SHARING

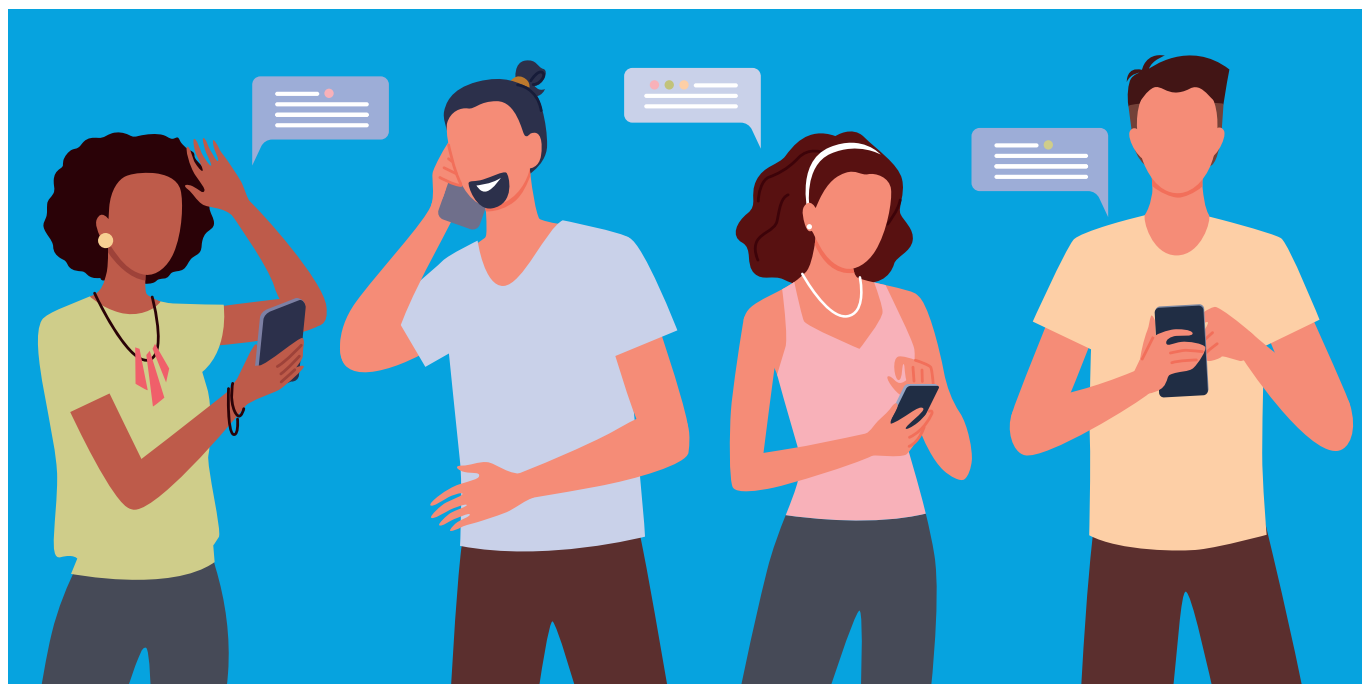
It is vital agencies develop an environment of information sharing that demonstrates to young people that agencies work together and keep each other informed of developments in order to serve children's best interests. The Data Protection Act (2018) allows that any practitioner can share relevant personal information about a child lawfully if it is to keep a child safe from harm, or to protect their physical, mental and emotional wellbeing.

All practitioners should aim to gain consent to share information but should be mindful of situations where to do so would place a child at increased risk of harm. Information may be shared without consent if a practitioner has reason to believe that there is good reason to do so, and that sharing the information will enhance the safeguarding of a child in a timely manner.

In addition to the statutory guidance applying to agencies working with children, the key legal concepts, legislation and terminology relevant to information sharing are contained in: The Data Protection Act 2018; The Human Rights Act 1998; The common law duty of confidence.

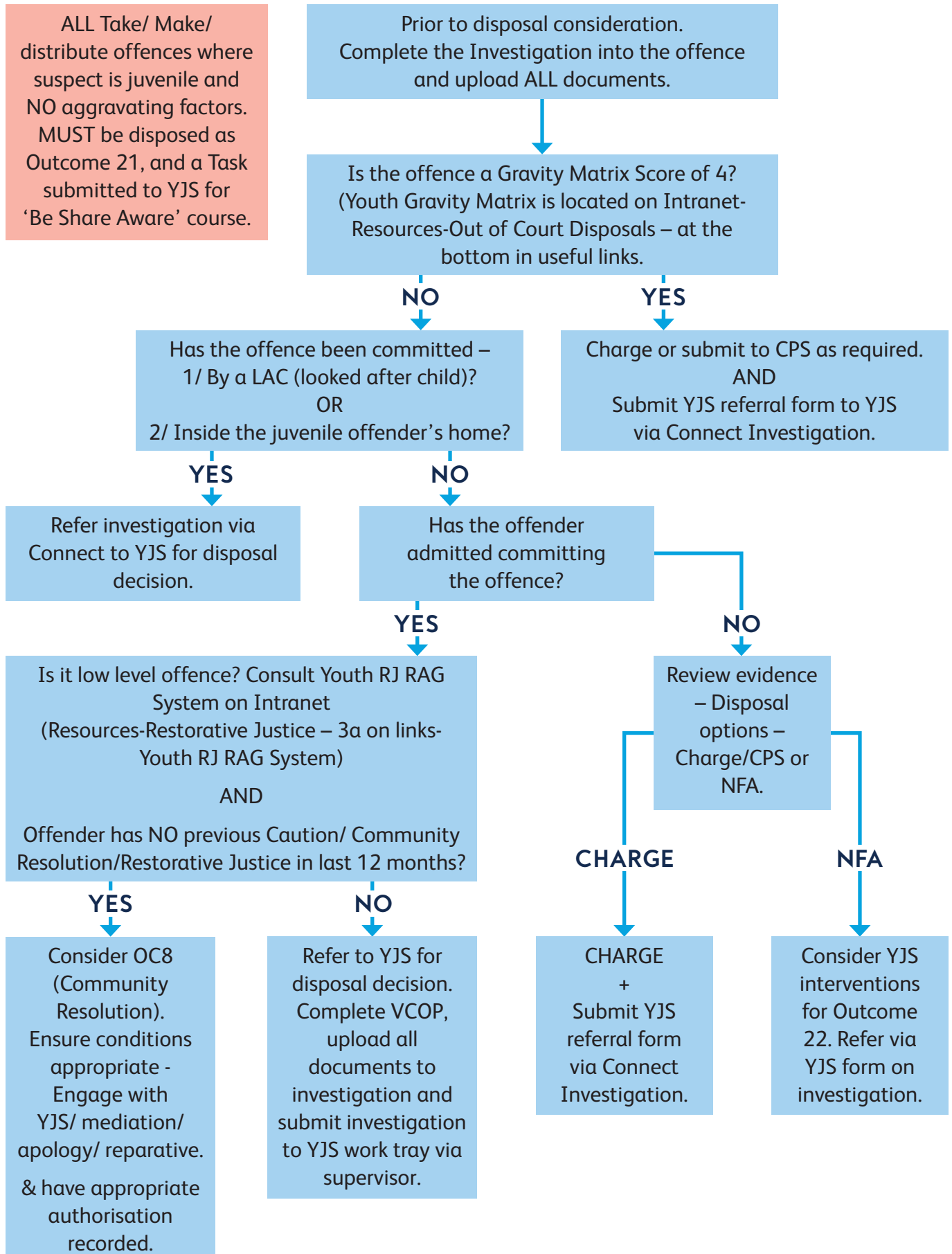
The information that could be shared between agencies for contextual safeguarding may include the following:

- Children and young people (both UK and foreign nationals) at risk of being sexually exploited (including regular updating of any CSE assessments), coerced into criminal activity, or trafficked.
- Children and young people believed to be criminally active.
- Children and young people identified as criminally active being monitored including recording their clothing, times in and out of the homes and any property appearing without formal recognition or identification.
- Areas identified as used by drug dealers in the locality of their placement.
- Sex offenders living in or near placements if relevant (including notification by police as part of information regularly provided to inform children's home Location Review Risk Assessments).
- Grooming activity in the location.
- Gang activity in the location.



APPENDIX I

Juvenile Offender Process (Age 10 – 17yrs)



PRIOR to any investigation being referred to YJS for a disposal decision you MUST

1. Complete the investigation, upload ALL documents and complete VCOP.

2. Identify the Gravity Matrix score.

3. Stipulate the offence/s you are wanting a disposal decision for.

If OC8 has been completed by OIC close investigation and send a TASK to YJS.

*Do not allocate the investigation to YJS.

Any safeguarding, welfare concerns, identified risk – You MUST submit VAVC form.

APPENDIX 2

CPS 10-point Checklist: The Decision to Prosecute

Prosecutors are reminded of the need to consider all the circumstances surrounding the offence and the circumstances of the youth before reaching a decision and to apply all relevant CPS policies and documents. Failure to do so may result in proceedings for judicial review: *R v Chief Constable of Kent and Another ex parte L*, *R v DPP ex parte B* (1991) 93 Cr App R 416.

The 10-point checklist for offences in Children's homes setting out the required information before a proper decision can be taken on looked after children (this includes all voluntary arrangements, foster placements and secure training centres).

Factors that should be considered include;

1	Disciplinary/behaviour policy of the Children's home?
2	Why have the Police been involved and is it as agreed in the behaviour policy? 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 / disciplinary action already taken by the home? Information from the Home about the recent behaviour of the youth, including similar behaviour and any incidents in the youth's life that could have affected their behaviour, any history between the youth and the victim, any apology or reparation by the youth, history of the incident and any action under the disciplinary policy of the Home.
4	Any apology / reparation? Information from the Home about the recent behaviour of the youth, including similar behaviour and any incidents in the youth's life that could have affected their behaviour, any history between the youth and the victim, any apology or reparation by the youth, history of the incident and any action under the disciplinary policy of the Home.
5	Victim's views? The views of the victim, including their willingness to attend court to give evidence and/or participate in a restorative justice or other diversionary programme.
6	Social Workers Views? The views of the key worker, social worker, counsellor or CAHMS worker on the effect of criminal justice intervention on the youth, particularly where the youth suffers from an illness or disorder.
7	Care Plan for Looked after Child? If the looked after child wishes it to be considered, information about the local authority's 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 should be an integral part of the Care Plan for the looked after child.
8	Recent behaviour at the home / previous incidents
9	Information about the incident from the looked after child (e.g. informal interview at the home)
10	Any aggravating or mitigating factors? Prosecutors should consider all of the aggravating and mitigating features when deciding on the appropriate outcome.

Prosecutors should consider all of the aggravating and mitigating features when deciding on the appropriate outcome.

Aggravating features include:

- The offence is violent or induces the genuine fear of violence in the victim
- The offence is sexual
- The offence is motivated by hostility based on the gender, sexuality, disability, race, religion or ethnicity of the victim
- The victim is vulnerable
- The damage or harm caused is deliberate and cannot be described as minor
- The offence forms part of a series of offences
- Informal measures have been ineffective in preventing offending behaviour

Mitigating features include:

- The damage or harm caused is at the lower end of the scale and has been put right
- Appropriate action has already been taken under the disciplinary procedure or other informal disposal
- Genuine remorse and apology to the victim
- The behaviour is a symptom of a disorder or illness that cannot be controlled by medication or diet. Refer also to Mentally Disordered Offenders
- Care should be taken where it appears that the youth has deliberately refused medication or deliberately consumed a substance knowing that his or her behaviour will be affected.
- Isolated incident or out of character
- The young person is under extreme stress or appears to have been provoked and has overreacted

The reasons for the charging/diversion decision should be clearly recorded and show the factors that have been considered by a youth specialist to determine how the public interest is satisfied.

APPENDIX 3

CPS guidance: Offending Behaviour in Children's homes

The decision to prosecute looked after children for low level offences committed within a children's home is a major decision and should be taken by a youth specialist, who, wherever possible, will be a volunteer who has attended the CPS Youth Offender Specialist Course and is a Senior Crown Prosecutor.

A national protocol to reduce the criminalisation of looked after children and care leavers was published in December 2018. This provides a framework for criminal justice and local agencies to co-develop local arrangements in order that they can respond consistently, and share necessary information, to help achieve better outcomes for looked after children and care leavers.

This guidance is intended to assist youth specialists in determining where the public interest lies when it is alleged that a looked after child has committed an offence in the children's home where he or she lives. It is not intended to apply to all offences committed by looked after children; although some of the principles may be helpful when applying the public interest stage of the Full Code Test to offences committed outside the home.

Children and young people who live in children's homes are at a high risk of offending behaviour because:

- Many looked after children are between the ages of 14 and 17, which is regarded as the peak offending age range
- In some children's homes they are likely to be living with young people who have been remanded to local authority accommodation, and may be susceptible to group offending behaviour
- They may be living in accommodation far from their home, so may lack support from friends and family
- Many looked after children display challenging behaviour, which may be a reaction to past experiences of abuse and neglect; and/ or have been diagnosed as experiencing Attention Deficit and Hyperactivity Disorder and Oppositional Defiant Disorder. Their offending behaviour may be caused by or otherwise linked with the disorder
- Their behaviour is likely to be more challenging and demanding because of their family experience, the breakdown of foster placements and frequent moves from other children's homes
- Living in a group with other challenging and demanding children of the same age gives rise to greater potential for conflict, bullying and peer group pressure

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. Specialists should bear this in mind when dealing with incidents that take place in a children's home. However, where offending behaviour occurs in a family context, the CPS Domestic Violence Policy would apply wherever a partner, sibling, parent or other family member experiences violence at the hands of a youth. **It is important that all people feel safe in the place that they live, whether that is in a family home or children's home and that they have confidence in the criminal justice system to intervene and protect them where this is necessary.**

A criminal justice disposal, whether a prosecution, youth caution or youth conditional caution, should not be regarded as an automatic response to offending behaviour by a looked after child, irrespective of their criminal history. This applies equally to persistent offenders and youths of good character. A criminal justice disposal will only be appropriate where it is clearly required.

Informal disposals such as restorative justice conferencing, reparation, acceptable behaviour contracts and disciplinary measures by the home may be sufficient to satisfy the public interest and to reduce the risk of future offending.

Behaviour Management policies

All children's homes, whether they are run privately or by the local authority or voluntary sector must comply with the Children's Home Regulations 2001, which are mandatory, and the National Minimum Standards, which are issued by the Secretary of State under section 23 Care Standards Act 2000. These are minimum standards, not examples of good practice, and Homes should aspire to exceed them. Copies of these documents are available at:

- <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00030-2011>
- <http://www.legislation.gov.uk/ukpga/2000/14/section/23>

Each home must have a written behaviour management policy that sets out the measures of control, restraint and discipline which may be used in the children's home and the means whereby appropriate behaviour is to be promoted in the home. **A copy of this policy and a statement from the home setting out how the policy has been applied to this incident should accompany any request for advice on charging.**

Each home should have a clear written policy, procedures and guidance for staff based on a code of conduct that sets out control, discipline and restraint measures that are permitted and must reinforce positive messages to children for the achievement of acceptable behaviour. The consequences of unacceptable behaviour should be clear to staff and children and must be appropriate to the age, understanding and individual needs of the child. It must also be recognised that unacceptable or challenging behaviour may be the result of illness, bullying, disabilities such as autism, ADHD or communication difficulties.

Standard 22 National Minimum Standards for Children's Homes requires staff to respond positively to acceptable behaviour, and where the behaviour of children is regarded as unacceptable by staff, is responded to by constructive, acceptable and known disciplinary measures approved by the registered person. Control and disciplinary measures should encourage reparation and restitution. Corporal punishment, deprivation of food and drink and punishing a group for the behaviour of an individual may not be used as a disciplinary measure, and financial penalties are restricted to the imposition of a reasonable sum, which may be paid by instalments, by way of reparation (Rule 17 CHR 2001).

Unless the registered person can show it is inappropriate, the home should also have procedures and guidance on police involvement in the home, which has been agreed with the local police. Staff should know about the agreement with the police and should be clear when the police should be involved. (Paragraph 22.15 National Minimum Standards for Children).

APPENDIX 4

