



Reducing Offending Behaviour

Joint Protocol Between; Derbyshire Police, Derby City Council, Derby City Youth Offending Service and the Crown Prosecution Service.

A multi-agency approach to prevent unnecessary criminalisation of children in care, by assisting in the determination of an effective, appropriate and proportionate response to offending and anti social behaviour in the home or community.

Version 1.2

October 2018

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Foreword:

It is the purpose of this protocol to provide guidance on the range of options available when a child or young person in care presents behaviour that could be liable to prosecution within the Criminal Justice system and to emphasise the importance of flexibility in deciding upon the most suitable option for dealing with some of our most vulnerable children and young people in the city. In doing this, there are some vital underpinning principals that need to be shared between agencies:

Safeguarding is everyone's responsibility and agencies involved in safeguarding must ensure effective multi-agency partnerships that help to manage the risks to children and young people. It is furthermore vital in the prevention of offending and criminalisation and protection of vulnerable young people, that agencies develop and maintain an environment of information sharing.

This protocol aims to strike a balance between the rights and needs of children and young people in care, victims of challenging or criminal behaviour, the rights of carers and the provider's decisions to instigate Police action.

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1. Background:

It is recognised the vast majority of young people who enter the care system do not exhibit criminal behaviours and never become subject of police investigation. However, children in care are disproportionately represented in the Criminal Justice System, yet are some of society's most vulnerable children and young people.

This protocol provides guidance and support for decision making when a child in care commits an act deemed inappropriate or criminal. It provides a structure to aid the level of response to address behaviours.

The protocol and guidance takes the following documents into account:

- The Crown Prosecution Services' guidance "The CPS: Youth Offenders"
- NPCC guidance on Out of Court Disposals and NPCC Children and Young People Strategy.
- OFSTED framework for inspection of Children's Homes 2015.
- The National Crime Recording Standards

1a. Introduction:

The standardised guidance and tools contained within this protocol provide a framework for embedding good practice and communicating this to young people in care and their carers. When carers report an incident to the police, it does not necessarily result in a police investigation. Incidents are dealt with on a case by case basis, ensuring an appropriate, proportionate and necessary investigation is conducted.

Wherever possible, as defined in this protocol, the action to be taken will be determined following discussions with all concerned, including, wherever possible, the young person, and any victim.

Carers will need to use professional judgement when deciding on the appropriate course of action and whether a police response is required. Guides have been produced to assist in this decision making process –see Appendix 1 (Traffic light documents).

Wherever possible regular liaison between local police and carers will provide an opportunity to share information, develop better understanding of each agency's responsibilities and practices and build positive relationships.

It is recommended police will provide a contact or local champion for carers as part of local policing arrangements.

1b Unaccompanied asylum and migrant children

Unaccompanied asylum seeking and migrant children who are looked after are especially vulnerable, should they go missing from their care placement.

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Not only are they at risk of being exploited or mistreated, they are often at heightened risk of being coerced into crime, including being radicalised. The Government has published separate statutory guidance that is underpinned by safeguarding strategy (November 2017) to support local authorities and their partners in the care of this cohort of vulnerable looked after children. This should be carefully considered and used in such circumstances alongside this Protocol.

1c. County Lines

It is important that all agencies have an understanding of where UK as well as foreign nationals may have been coerced and subsequently criminally exploited (for example running county lines or in cannabis cultivation). County lines activity and the associated violence, drug dealing and exploitation has a devastating impact on young people and their families. Looked after children may be vulnerable to this form of exploitation, especially as many are also educated in Pupil Referral Units (PRU's), which are often targeted by criminal gangs to recruit and groom vulnerable young people. This should be considered as part of the decision making process in the context of this Protocol, as consideration is needed as to whether prosecution is the right decision for vulnerable young people who are being groomed and exploited in much the same way as those young people at risk due to Child Sexual Exploitation.

1d Trauma and Attachment

Professionals should have an understanding and awareness of trauma and attachment and their impact on neuro development and behaviour in order to have an understanding of how this may impact on potential offending behaviour. Young people in care have often experienced multiple trauma's and many have issues with regard to their form of attachment with their primary care givers, which often leads to difficulties in forming attachments later in life with others. This is the context in which children in care often display challenging behaviour and needs to be borne by all professionals when making decisions on how to deal with a child whose behaviour could come to the attention of criminal justice agencies.

2. Requirement for Police Involvement:

The **nature** and **seriousness** of any incident should be considered before deciding whether to involve the Police immediately, at a later stage, or whether to involve them at all.

Any communication between carers and the Police regarding the incident must be clear and factual. The carers must contact one of the identified Police Single Points of Contact to explore the incident and what course of action is appropriate in those circumstances.

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Any information regarding concern for potential or perceived radicalisation of young people should be reported to the police and the team around the child immediately.

3. Categories of Response

It is recognised caring for and managing children in care, who may have experienced a range of traumas, can result in difficult or challenging behaviours. Carers will generally manage problematic situations within the home, except where they are so severe that immediate Police involvement is essential to prevent harm to young people, carers or others.

The protocol identifies three categories:

- **Internal** - No police involvement
- **Non-immediate** - Police informed and appropriate and proportionate delayed response/discussion.
- **Immediate** - Requires immediate police response/investigation.

If the situation changes you must inform the police control room immediately to ensure the appropriate and proportionate response.

3a. Internal incidents:

Minor incidents (such as behaviour that would generally be dealt with by a parent or carer in a home situation) will be addressed using a range of informal approaches, including: sanctions, restorative approaches and behavioural contracts. These may be dealt with within regular community or house meetings and addressed with all residents or family members of the home. Police will be informed if deemed appropriate, in relation to the incident and wider safeguarding concerns.

3b. Non-immediate incidents

An incident where ASB/crime has been committed and no immediate Police response is required. For example, an incident of theft, assault or damage has occurred and there is no significant threat, risk or harm identified. The incident should be reported to the Registered Manager, who then records the discussion with a carer if appropriate.

Foster carers should inform the child/young person's social worker at the first opportunity to discuss.

The victim's voice should always be considered but it must be remembered that this does not always mean that they will be automatically followed by the Police.

Where police advice and support is needed, the carer should first of all contact any of the identified Police Single Points of Contact, the Police control

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room to discuss a delayed or scheduled visit, or hold a telephone conversation with the incident resolution team.

Carers must be clear about their expectations of the police when reporting a 'non immediate' incident. E.g. do they want support in a matter that has already been resolved by the carers, or do they want to report a crime to the police for investigation. **(See crime recording below)** This is vital regarding how the police grade and record the incident.

Note:

Police taking a call for service must establish the reason for the call to ensure the appropriate and proportionate response to the reported incident, preventing any unnecessary police investigation or the criminalisation of young people. The Police should offer the option of a visit to that children's home by any of the identified Police Single Points of Contact.

3c. Immediate incidents

In a situation involving an immediate emergency or incident of violence or behaviour requiring an immediate Police response, including where children/young people or carers are at risk of immediate serious physical harm, carers should ring 999.

Carers will need to ensure reasonable steps are taken to retain articles/evidence or preserve the scene of a crime relevant to any criminal allegations or potential Police investigations.

4. Recording:

4a. Recording incidents by carers

It is necessary for incidents to be accurately recorded to inform assessment planning and intervention. All incidents must be recorded in the personal file for each young person and cross-referenced in the relevant log book.

Carers should report and record all significant or notifiable incidents as per Integrated Children and Families guidelines and inform the team around the child, i.e. YOS worker, TYS worker and Social Worker.

4b. Recording of incidents reported to the Police.

National Crime Recording Standards:

All incidents reported to the police as a crime will be given a crime number/occurrence number in accordance with Home Office guidelines.

****This does not always mean a criminal prosecution will take place****

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The Police can record an outcome disposal of:

- A- Outcome 20 (Police acknowledge the behaviour has been dealt with in an alternative way).
- B- Outcome 21 (Not in the public interest to prosecute).

Or

Where the victim is not willing to support a prosecution, this will be recorded to close an incident/finalise an occurrence.

****There is an expectation that all alternative measures (disposals) have been exhausted i.e. behaviour contracts, restorative justice sanctions before any criminal prosecution****

4c. Recording of non-immediate incidents by the Police

Incidents discussed by the Police and carers, in relation to behavioural matters, should be recorded on the young persons' care record.

Non-immediate incidents reported by carers as a crime will be recorded by the Police and appropriately and proportionately investigated.

4d. Recording of immediate incidents by the Police

Any Identified criminal offences will be recorded as crimes and appropriately and proportionately investigated.

5. Substance Misuse:

The misuse of controlled drugs within a young persons' home, or placement is a serious issue and it is essential the response is prompt and effective.

Carers will need to balance their duty of care for the young people in the home and their role in managing young people's behaviour, as well as their responsibilities to the wider community. In practice Carers should share information with the Police if established that a young person is using illegal substances or if illegal substances are found on the premises. A referral/consultation with Breakout (young persons' drugs and alcohol service) must always be completed. The Social Worker should always be kept informed.

It is important that all action taken is recorded by carers.

Drugs and drug-related materials should be stored securely in a safe or locked device. These should **not** be disposed of, pending any investigation and the appropriate advice sought for disposal.

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If the quantity of substance and/or associated paraphernalia indicates a young person may be involved in distribution, this concern needs to be reported to the police immediately through any of the identified Police Single Points of Contact or 101.

The police investigation will be appropriate and proportionate to the reported incident.

5a. Record of the removal/seizure by carers:

A record of the removal/seizure should be kept by carers and include the following:

- Time and date of the removal
- Name of the person removing the material
- Description of the material
- Circumstances of the removal
- Time and date the material is placed in secure storage
- Signature of the person putting the article in to the storage countersigned by a second member of staff
- Time and date the material was removed by the Police
- Name and signature of the Police Officer removing the material
- A photo of all items seized is advisable to protect staff against any future discrepancies.

To ensure controlled substances are not stored in homes any longer than necessary or transported unnecessarily by care staff, it is important every effort is made by Police and care staff to work together to ensure the earliest opportunity for secure disposal.

Carers can dispose of alcohol and canisters (aerosols) but it is important the disposal is witnessed and a record kept in line with the list outlined above.

6. Weapons:

If a knife or weapon is found in a young person's room, information needs to be recorded and shared with the young person's professional network and police, so a risk assessment can be completed.

The team around the child should consider opportunities for the young person to receive education/intervention on this issue.

The Police should be given an opportunity to decide if the weapon needs retaining prior to any disposal. Please follow list (6a). Where is list 6a?

If it is suspected a young person is carrying a weapon, they should be encouraged to surrender the weapon to care staff, but at no point should care staff put themselves at risk. The Police must be informed.

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7. Sexual Offences:

When considering incidents of sexting or potentially sexually harmful behaviour, the risks associated with the behaviour need to be balanced with the potential long term implications of criminalising young people and the information being disclosed. It must also be established whether intelligence is being shared or there is an immediate risk.

The police should be contacted if there is an immediate risk of harm, a complaint has been made, there is an identified power imbalance, or there are indicators of grooming or CSE or CCE. Information must be gathered from the team around the child.

In these circumstances, there needs to be consultation with a Child Protection Manager to discuss whether the threshold for a Section 47 enquiry and a strategy discussion is needed.

Agencies should follow their own process of screening and risk assessment to ensure any identifiable risk is managed as safely as possible. Consideration should be given to specific education and further discussion.

8. Prosecution requirements - 10 point plan:

The decision to prosecute children in care for 'low level' offences committed within a care environment is a major decision and should be taken by a youth specialist. Prosecutors need to consider all the circumstances surrounding the offence and the circumstances of the young person before reaching a decision and need to apply all relevant CPS policies and the Code for Crown Prosecutors. The following 10 point check list will form part of the prosecution information for offences committed within the home. This should be completed by the officer in the case in liaison with the professional team around the child. This guidance is not intended to cover all offending: however some of the principles may be helpful for other offences, when deciding if prosecution is in the public interest.

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 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 Defiance Disorder. Their offending behaviour may be caused by or otherwise linked with the disorder

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- 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

It is important that all people feel safe in the place where they live and work.

The police are more likely to be called to a residential home than a domestic setting to deal with an incident of offending behaviour by an adolescent. Specialists should bear this in mind.

A criminal justice disposal, whether a prosecution or caution, should not be regarded as an automatic response to offending behaviour by a child in care, irrespective of their criminal history. This applies equally to young people with previous offending history or none. 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 further offending.

The Checklist provides the investigation with a tool to assess that all forms of disposal have been exhausted and sufficient information is available to CPS for a charging or prosecution decision.

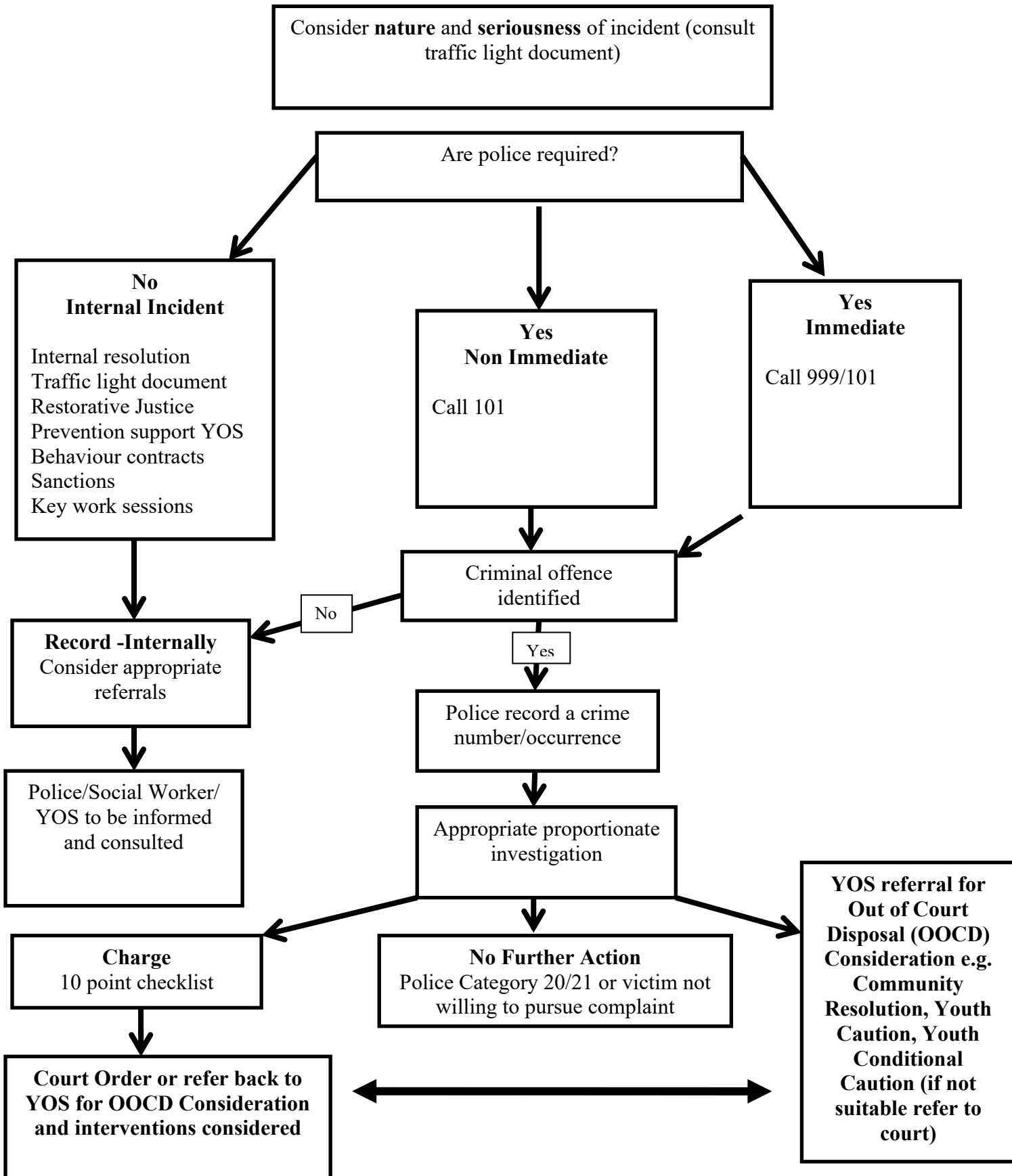
The 10 point plan should be completed jointly with the police, Social Worker or carers.

8a. 10 Point Checklist:

1	Disciplinary Policy of Children's Home? Has the jointly agreed guidance been followed?
2	Why have the police been involved and is it as agreed in the policy? Evidence of factors taken into consideration.
3	Any informal action/disciplinary action already taken? Historic information about sanctions around the same offence.
4	Any apology/reparation?
5	Victim's views? Eg is the victim supportive of a prosecution?
6	Social Worker's views?
7	Care Plan for Looked After Child? Is there a move imminent?
8	Recent behaviour/incidents re looked after child?
9	Information about incident from looked after child (interview or other)? What are the thoughts of the young person about the incident and their own behaviour?
10	Aggravating and Mitigating Features?

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9. Reducing Offending Behaviour Flow Chart




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All Situations

Consider: Referrals to Multi-Agency Team or YOS Youth Crime Prevention Officer (Breakout Drugs & Alcohol referral), CAMHS consultation and restorative approaches.

10. Organisational Sign Off:

To evaluate compliance with the protocol liaison should be held between all partners involved in the Derby City CONCORDAT partnership for Children in care, including: the local Police Authority, Local Authority Children's Home Managers, Commissioning Service Managers and Youth Offending Service.

Signed:	
Name:	Janine Smith
Role:	Chief Crown Prosecutor
Organisation:	Crown Prosecution Service East Midlands
Dated:	19 November 2018

Signed:	
Organisation:	
Dated:	


Signed:	
Organisation:	
Dated:	

Signed:	
Organisation:	
Dated:	

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12. Appendix 1- Traffic Light Documents

What we can expect of each other



**Internal
No police response
required**

E.g. Testing boundaries, 'minor' damage



**No immediate police
response required**

*E.g. No ongoing risk of harm.
Repeated / worsening behavior*



**Immediate response
required**

*E.g. Serious assault or damage where a
person / people are at risk of harm*

Action

- Carers manage situation, refer back to this agreement
- Contact YOS for advice and support



Action

- Discuss behavior with Manager/Supervising Social Worker/ YOS
- Record behaviour



Action

- 999
- Once staff and young people are safe, record behavior and inform Social Worker and YOS worker if there is one



- Informal restorative justice, agree sanctions/actions
- Possible Prevention support
- Record action
- Inform Social Worker / YOT worker if there is one
- Invitation to police to support internal actions

- Discussion with the police (Beat manager PCSO, CiC Officer) and team around the young person
- Decision for police investigation, restorative justice or preventative work
- Record decision and outcome on young person's records

- **Police Investigation**

Charge to court: restorative justice will be considered as part of any sentence

No charge. Consider restorative justice or preventative work

Regular contact and meetings between carers and stake holders to build relationships and communication

This shows the process that your carers will go through when thinking about how to respond if there is behaviour that needs to be challenged in your home, so that everyone can feel safe and supported. This process will be used in Derby City, in foster care, Local Authority and private homes so that everyone is treated in the same way.

Rights: Young people and carers have the right to;

- Be respected
- Feel safe
- For their belongings to be their own
- To have a voice and speak out

You are able to contact:

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Crimestoppers: 0800 555 111

Derbyshire Police: 101 or 999 in an emergency (if you or someone else is in danger)

Things to consider...

The following factors should be considered when deciding what action to take when there has been unacceptable behaviour by a child or young person.


The list is not exhaustive, and does not reflect any order of priority:

- Nature and seriousness of the allegation
- Severity of any injury/threat received by the victim
- Wishes and best interest of the victim
- Previous incidents of a similar nature by the same child or young person
- Does the response need escalating?
- Previous relationship between victim and offender
- Previous behaviour or offending, bullying/peer pressure/duress
- Probability of a repeat incident
- Potential impact of formal police involvement on the child / young person
- Views of carers, Social Worker and other professionals including health & YOS where appropriate
- Appropriateness of Police action / court proceedings
- Future best interest 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 courses of action, e.g. restorative approaches with the consent of the victim, referral to the Youth Offending Service
- Level / Value of damage caused
- Requirement for formal investigation, e.g. insurance claim requires a crime reference report
- Potential impact on the young person, the placement or home including staff and residents if the behaviour escalates or is repeated or the young person has previously displayed this behaviour.
- The availability of any diversionary activity
- Reparation ideas (work best where come from young people and linked to offence)
- Could include: Tidying up mess caused, helping to fix damage, sit down meeting, letter of apology, chores etc.

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How do you feel now?

Where would you score what happened using the Signs of Safety scale and why?



**Internal
No police response**

**Signs of Safety
score 7-10 (No risk)**

E.g. Testing boundaries, 'minor' damage
Why?.....
.....
.....



**No immediate police
response**

**Signs of Safety
score 4-6**

E.g. No ongoing risk of harm. Repeated / worsening behavior
Why?.....
.....
.....



Immediate response

**Signs of Safety score
1-3 (Most risk)**

E.g. Serious assault or damage where a person / people are at risk of harm
Why?.....
.....
.....

Action

- Carers manage situation, refer back to this agreement
- Discuss with YOS

Action

- Discuss behaviour with Manager/Supervising Social Worker
- Discuss with YOS
- Record behaviour

Action

- 999
- Once staff and young people are safe, record behavior and inform Social Worker/EDT and YOS

- Informal restorative justice, agree sanctions,
- Record action
- Inform social worker/YOT worker if there is one
- Invitation to police to support internal actions, consider preventative support

- Discussion with the police (Beat manager PCSO, CiC Officer) and team around the young person
- Decision for police investigation,
- Refer to OOCDC Clinic for outcome decision
- restorative justice or preventative work
- Record decision and outcome on

- **Police Investigation**

Charge to court: restorative justice will be considered as part of any sentence

No charge. Consider restorative justice or preventative work

Regular contact and meetings between carers and Stakeholders to build relationships and communication

To the person/s harmed (if present):

- What happened?
- What were you thinking? Then/now?
- What has been the hardest thing for you?
- What do you need to help repair the harm/ resolve this conflict?

To the person causing harm/conflict:

- What happened?
- What were you thinking? Then/now?
- How were you feeling?
- What do you need to do to repair harm
- Resolve this conflict?

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How do you think your community has been affected by your behaviour?

.....
.....
.....

Do you have any needs individual to you that we need to think about when we are making decisions about your behaviour?

.....
.....
.....

How can you/we prevent this from happening in the future?

.....
.....
.....

Do you need support from anyone else to do this?

.....
.....
.....

Both share an example of when you (the young person) has done something nice/behaved well

.....
.....
.....

Actions

.....
.....
.....
.....

Signed _____
Date (Young Person)

Signed _____
Date (Worker)