



Responding to Children in Care Protocol

A Protocol between Thames Valley Police, Berkshire West Safeguarding Children Partnership, West Berkshire Council and providers of Children Homes.

Background

This protocol is part of the strategy to manage and reduce the offending and criminalisation of Children in Care (CIC) and to reduce the incidents of missing children.

This protocol has been developed to reduce the number of offences committed by children in the care of the local authority by ensuring responses to behavioural difficulties which may be viewed as criminal are proportionate and appropriate in terms of staff/carers response and the need for police involvement and/or court action.

The principles of this policy are applicable to the residential children's homes within West Berkshire.

This local protocol should be read in conjunction with the national protocol on reducing unnecessary criminalisation of looked-after children and care leavers 2018, the Thames Valley Protocol on Reducing Unnecessary Criminalisation of Children in Care and Care Leavers 2020 and the Statutory guidance on children who run away or go missing from home or care 2014.

Key Principles

Treat Children as Children: It is crucial that in all encounters with the police that those under 18 are treated as children first.

Trust: There is often a lack of trust in the police among many children and young people. Some children and young people fear the police. It is recognised nationally that children in care who are over represented in the criminal justice system can have negative early experiences of the police and do not always get the support and protection they need.

Proportionate action: The Authorised Professional Practice found evidence that police were called to deal with incidents in residential children's homes which, should they have occurred in a family home or school setting, would have been managed without police involvement - would there be the same response in a family home.

Restorative Approaches: There should be a reduced reliance on formal criminal justice procedures. This does not remove the right of individual residential care staff to call the police or the importance of the police responding appropriately to incidents.

Responding to Incidents

“When the state takes over the parenting of someone else’s child, it has both a legal and moral responsibility to be a good parent” Lord Laming (In Care Out of Trouble 2016) It is recognised that caring for and managing young people with difficult or challenging behaviour is an integral feature of working within a children’s home. There should be a presumption that staff and carers will generally manage problematic situations “in-house”. However to assist staff in their decision making the CIC Gravity Matrix should be used (Appendix A). As before, and in line with the governance of your homes, it remains necessary for all incidents within the homes to be accurately recorded to provide informed histories of those in care.

If police attendance is required it does not necessarily mean that there will be an arrest. It should be recognised that each individual case is risk assessed by the home first and a police presence may be enough to diffuse the situation. When an officer decides that a young person is the suspect in an offence there should be a presumption to interview out of custody, unless the criteria exists to arrest in line with the PACE 1984 Codes of Practice.

No Immediate Police Response Required:

Where the incident does not pose any immediate risk or any further risk of harm the duty manager should be consulted as to whether it is appropriate to report the incident to the police. Where the decision is made to involve the police this should be made through the 101 number as opposed to through an individual officer. The police will then decide on an appropriate course of action, which may still include arrest.

It is vital that any communication between care staff and the police is clear and factual, if responses are to be appropriate to the situation.

Should a crime be recorded and the young person admits the offence the Youth Justice Unit will consider the administration of processes outside of the criminal justice system. The intention being to implement targeted interventions to reduce the young person’s involvement in crime or anti-social behaviour and reduce the likelihood of future offending.

In certain circumstances for Level 2 or 3 offences, preservation of evidence may be necessary as part of the investigation. Staff and carers will need to take reasonable steps to retain any such articles. In cases of doubt the police should be consulted immediately.

Where complaints of anti-social behaviour have been made involving CIC, the initial response by the police control room will be to make contact with the individual home. The expectation being that staff and carers have an appropriate level of control over the young people afforded the opportunity to resolve without police attendance and that appropriate action is taken by care staff before officers will be deployed to the location. Whether police attend or not the complainant will be informed of the action the police and home have taken where appropriate.

Immediate Response Required:

Police should be called where there is an unacceptable level of risk to personal safety and where it is deemed unlikely that order will be restored without police assistance. Incidents graded Level 3 on the Gravity Matrix will require a police response. An immediate response will be needed for incidents of serious violence or disorder or where children, staff or carers are at risk of immediate serious physical harm. These situations should be reported by calling 999.

Calls from Residents

If one of the residents calls in to the Police to report a matter, an incident number will be created on the police Contact Management Platform (CMP). If the incident is not graded as requiring an immediate response, then the Police may first telephone the home and alert staff to give them time to investigate the matter to see whether Police attendance is, in fact, required. Staff will then call back to confirm either way.

If the call from a resident is in any way an allegation against a member of staff, Police will attend and investigate the incident. All such cases will be referred to Local Authority Designated Officer for investigation.

Restorative Approaches:

Thames Valley Police are committed to developing a restorative ethos in children's homes recognising that this helps develop a positive atmosphere and builds stronger relationships.

Where incidents can be resolved without police involvement restorative approaches will encourage the young person to take responsibility for their actions, understanding the harm caused and 'making good' (if appropriate) for the harm caused.

Crown Prosecution Service (CPS) Response:

This guidance is implemented in conjunction with the CPS guidance on decisions to prosecute looked after children. This should be read in conjunction with Appendix B – Offending Behaviour in Children's Homes – Crown Prosecution Service Guidance. There are also a number of areas for which the CPS consider when making a charging decision. This includes a ten point check list which has been included under Appendix C. This will result in the homes being approached for information in order to complete the checklist.

Definitions – Missing

Anyone whose whereabouts cannot be established will be considered as missing until located, and their well-being or otherwise confirmed.

All reports of missing people sit within a continuum of risk from 'no apparent risk (absent)' through to high-risk cases that require immediate, intensive action. Children under 18 and children in care will not be classified as No Apparent Risk.

No apparent risk (absent)	
There is no apparent risk of harm to either the subject or the public.	Actions to locate the subject and/or gather further information should be agreed with the informant and a latest review time set to reassess the risk.
Low risk	
The risk of harm to the subject or the public is assessed as possible but minimal.	Proportionate enquiries should be carried out to ensure that the individual has not come to harm.
Medium risk	
The risk of harm to the subject or the public is assessed as likely but not serious.	This category requires an active and measured response by the police and other agencies in order to trace the missing person and support the person reporting.
High risk	
The risk of serious harm to the subject or the public is assessed as very likely.	This category almost always requires the immediate deployment of police resources. A member of the senior management team must be involved in the examination of initial lines of enquiry and approval of appropriate staffing levels. Such cases should lead to the appointment of an investigating officer (IO) and possibly an SIO, and a police search adviser (PoISA).

Each child in care has a separate risk assessment created by the social worker. Therefore, the triggers for when a child would be regarded as higher risk may vary from child to child.

However as a general guide the following principles apply:

Children Missing - A child is regarded as missing when the person responsible for them does not know where they are.

Unauthorised Absence (used only by care staff) - If the child's whereabouts are known or thought to be known, but unconfirmed, they are not missing, but absent without authorisation from their usual place of residence. Where a looked after child's whereabouts is known or thought to be known but unconfirmed, they are not missing but absent without authorisation from their placement up until a maximum of 6hrs unless other risks are identified.

Absconder - This is when a child or young person who is wanted for an offence, or who is subject to an order or requirement resulting from the Criminal Justice Process (e.g. remands, curfews, tagging, conditions of residence) or a secure order made in either civil or criminal proceedings. They will be considered as a 'wanted person', but there may also be the same risk factors for them as a missing child.

CSE – Child Sexual exploitation involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities. Child sexual exploitation can occur through the use of technology without the child's immediate recognition; for example being persuaded to post sexual images on the

Internet/mobile phones without immediate payment or gain. In all cases, those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources. Violence, coercion and intimidation are common, involvement in exploitative relationships being characterised in the main by the child or young person's limited availability of choice resulting from their social/economic and/or emotional vulnerability.

CCE - Child Criminal Exploitation occurs where an individual or group take advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into Criminal activity in exchange for something the victim needs or wants, and/or for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been criminally exploited even if the activity appears consensual.

Shared aims regarding missing children

The aim of this memorandum of understanding is to agree how the Police and the care staff will work together to:

1. Respond effectively to children accommodated in residential children's homes who go missing or who abscond and
2. Where possible, to reduce the risk of children going missing or absconding by the development of a working relationship and the exchange of information.
3. Manage incidents in and in the vicinity of the Homes

The primary duty for the welfare and care of children accommodated by the Local Authority rests with the Local Authority and the care staff.

The Police have a duty to prevent and detect crime and to protect life and property. Children who abscond or are missing from Local Authority provided accommodation are at risk of harm and may be vulnerable to exploitation (e.g. sexual exploitation, violence, gang exploitation, drugs and alcohol abuse).

It is the responsibility of each party to ensure that they have a legal basis for any action taken under the MOU. In particular ensuring compliance with the Data Protection Act 2018.

Prevention

It has been evidenced that early involvement by partner agencies can assist in reducing the risk to a child. The first possible opportunity agencies have in identifying and responding to the risk is a placement meeting.

As part of the placement process, care staff and the Local Authority will have undertaken a risk assessment regarding the child. This risk assessment will include information which may assist the Police in responding to or preventing a child going missing or absconding.

Where a risk has been identified that a child may be at risk of going missing, subject of crime or absconding, the care staff will consider:

- i. Notifying the Police point of contact when a new resident is due to move in, if that resident has risks associated with absconding, child sexual exploitation, sexual offences / behaviour, honour based abuse, or other crime.
- ii. Notifying and inviting the local Police safeguarding team and to attend the placement planning meetings for a safeguarding and policing purpose to assist in managing any risk factors,

developing trigger plans if needed and gathering information from other Force areas where required.

The Police safeguarding team can be contacted at safeguardingwestberks@thamesvalley.pnn.police.uk

- iii. Advising the Police of any known associates who are considered to be a risk to the child. This information may assist the Police in locating a missing child or to prevent crime.

Thereafter, care staff will consider if it is necessary to advise the Police of any information which may suggest that a child is at risk of going missing. Staff who have been trained are encouraged to submit intelligence to the police using the approved proforma. The regular meetings will provide the forum for sharing information for the purposes of this MOU.

However there will still be emergency admissions to homes where the above protocols will not be able to be followed. In cases of emergency admissions where there is a genuine risk of the child going missing or absconding, then placement staff will update TVP using the 101 telephone number.

Aside from working with the Police, care staff are responsible for considering what action they are required to take and what they are able to take to prevent a child from going missing or being at risk of crime and to be able to assist the Police in locating a missing child as quickly as possible.

This will include ensuring appropriate risk assessments and security measures are in place, including compliance with Ofsted security requirements.

It is recognised that the risk of children going missing will be reduced if appropriate precautions are in place to protect them. Physical security measures are a matter for the home manager to decide upon based on what is possible and lawful recognising the implications of deprivation of liberty guidance; however the following security measures are worthy of consideration, where lawful and appropriate.

- Alarming emergency exit doors so that staff are notified if they are opened.
- Incorporating a daily gate / door checking regime to ensure external and emergency doors have not been left open and that locks / mechanisms are in working order.
- Purchasing or updating a CCTV System to cover the doors of the premises so that it records the dates, time, comings and goings of all persons. Consideration should be given to adding cameras to cover outside areas to record any incidents of absconding or abductions. This system should be available to the Police for the prevention and detection of crime.
- A regular checking regime for high risk residents.

In order to assist the Police to respond swiftly to a report of a missing child, the home may wish to consider the following measures (subject to them being lawful and appropriate)

- Building a rapport with associates of residents, the landlords of the eating establishments, shops and business in the area and consider telephoning these when a resident goes missing. Where possible and lawful, consider keeping a record of people the child keeps in contact with and providing it to Police if considered appropriate to safeguard a child.
- A press release strategy to be considered by Children and Family Services should a child go missing. Any press release would need to be approved by TVP before released as this could increase the risk to the child and other residents at the home.
- An on call manager system should be put in place which states who should be informed of all potential critical incidents such as a high risk missing person.

A children's home cannot routinely deprive a child of their liberty without a court order, such as a section 25 order to place a child in a licensed secure children's home or in the case of young people aged 16 who lack mental capacity, a deprivation of liberty (DOL) may be authorised by the court of protection.

Police will be notified in advance when a child is placed in a home with a DOL order. A copy of this order will be provided to the police via a notification with a copy made available on request if required. Police may uphold the restrictions of a DOL order in consultation with children's social care.

Missing Person Investigation Form

All resident files will contain a Thames Valley Police Missing Person Investigation Form. The purpose of this form is to hold information which can be given to the Police immediately if a child goes missing.

Staff from the home should be prepared to answer a number of questions that will be asked by the police when a child is reported missing. Appendix D is attached to assist the home in this process.

The information in the form is necessary to assist in enabling a Police Search Advisor (PoISA) to profile the child. This profiling will enable the Police search advisors to direct resources to areas the missing child is most likely to be found in and assist in their swift recovery.

In the event that a child has been highlighted as a risk of absconding or going missing, early disclosure of the information i.e. on the child's arrival at the residential home should be considered so that Police can contact other police forces, provide early intervention work, and response plans to assist in safe guarding the child. If provided, please email these securely to The Safeguarding Team and/or The Missing & Exploitation Hub inbox along with a current photograph.

The Police safeguarding team can be contacted at safeguardingwestberks@thamesvalley.pnn.police.uk

The Missing & Exploitation hub can be contacted at MissingandExploitationhubBerks@thamesvalley.pnn.police.uk

The form should be made available on request for other policing purposes i.e. the protection and detection of crime.

Actions on the discovering that a resident is absent or missing - residential staff

On the discovery of a missing/absent resident, the residential staff should conduct a risk assessment to establish if the child is missing from care or is an unauthorised absence.

As a minimum, the following actions are recommended. In the event staff contact the Police they will be asked if they have been completed:

1. All staff are informed of the missing/absent resident and an 'Open Door' search is conducted of the home, grounds and out buildings. This should also include staff vehicles ensuring they are secure in case the resident has entered a vehicle and hidden inside.
2. The duty on call manager should be informed and be available to speak to the Police if required.
3. Contact all known associates and friends. Talk to other residents to ascertain whether they have any further information that might be of assistance.

4. Visit addresses of known associates, unless a joint visit is required with the Police. The grounds for a joint Police visit are:

- i. The visit is assessed as too dangerous for care staff to go alone

- ii. It would be too dangerous for the other residents to be left alone or with below minimum staff levels.

N.B. If it is not practical for a staff member to visit the address where they think the child maybe i.e. the address is a long distance from the home and they feel the child is of serious concern at that address. The senior staff member on duty should discuss with the Duty Police Inspector / Supervisor if the Police would be able to conduct a welfare visit.

5. The CCTV system should be checked to try to pin point the time that the missing/absent person left the premises, by which exit and also a description of the clothing worn
6. **If the child is classed as Missing from Care** details of the missing person should be reported to the Police Command and Control Room by telephone number 101 / 999 as this search takes place. The level of concern for the welfare of the missing resident should be stressed to the call taker where applicable.
7. Police should be furnished immediately with the partially completed Missing Person Investigation Form (including a current photograph of the missing person and full details from the files).

Police Initial Risk Assessment

When staff contact the Police Control Room, they will be asked a series of questions to determine the risk to the child, they should be answered truthfully to form an accurate risk assessment and not exaggerated to get a Police response. For example, risks associated with CSE or CCE should be in line with the grading given by the EMRAC.

Once the matter has been reported to the Police, it will be the role of the Police Control Room Operator to conduct an initial risk assessment. The questions are:

1. What is the specific concern that has caused you to call the police?
2. How many times have they been missing in the past?
3. What has been done so far to trace this individual?
4. What medication does the person need? What happens if they do not get their medication?
5. Are they likely to come to any harm?
6. Are they likely to be the victim of a crime?
7. Are they likely to self-harm or to attempt suicide?
8. Do they pose a danger to other people?
9. Is this significantly out of character (has there been a recent change in the persons behaviour)?
10. Is there any other information relevant to their absence?
11. (Under 18) Are they associating with Adults that you think may present a risk to them?
12. (Under 18) Are they in possession of money, gifts, perfume, clothing or other possessions for which there is no plausible explanation as to how they received them?
13. (Under 18) Are they associating with other young people who you know, or suspect, have been sexually exploited?

Actions by Police for Missing Residents

1. The Police Enquiry Centre (PEC) receives a report that a child is missing and records them as missing dependent on the answers to the 13 standard risk assessment questions:

2. If missing, a Police officer will visit the reporting person and commence a missing person investigation including a search of the premises and surrounding grounds accepting this action should already have been completed by the reporting person.
3. Within 24 hours of the child's return, the Police undertake a 'safe & well' check and inform all agencies of the child's return. Police will pass details of the safe & well check to CSC as soon as practicable.
4. In cases concerns about the child are identified, the police will make a referral to CSC irrespective of the duration of time the child has been missing.
5. Repeated missing children (3 times in 90 days) will be discussed at EMRAC with all relevant agencies and partners attending to achieve an appropriate problem solving response.

Return of missing residents

If the child has been located away from the home the presumption will always be that that it will be the responsibility of the children's home to arrange the return of the child. Once a child has returned or been returned to the home, the Police will be notified. Under normal circumstances the Police will attend and conduct a safe and well check. However consideration should be given to when this should be carried out. Safe and well checks conducted in the middle of the night often disrupt the children and yield little useful information. Unless there is a suspicion that the child has been involved in / subject of criminal offences and it is believed that an early debrief is required to potentially preserve evidence, consideration should be given to the safe and well check being conducted later and where possible by the SPOC. However ultimately the decision on when the safe and well check will be conducted will rest with the duty Inspector. Residential staff will in all cases conduct a comprehensive Return Interview at the earliest opportunity and the contents of this will be forwarded to the police for inclusion with the missing person record.

All information obtained will be shared with the Police and Children's Services of both the local and home authorities. The return information will include a summary of the safe & well check by Police which should cover if ascertained, the reason for going missing, a summary of the circumstances whilst the child was missing/absent, location found and all other information obtained by the police. Reports covering weekends will be sent on Monday mornings.

When a child repeatedly goes missing 3 times in 90 days this will trigger a strategy meeting. The information gained from the return home interviews, residential care staff, Police safe and well checks and Children's Services updates will be used to plan for the next missing episode and to hopefully prevent it.

In cases where a concern about the child is identified, the Police will make a referral to CSC irrespective of the duration of time the child has been missing. If outside office hours, Police must inform the relevant EDT (out of hours CSC)

Police protection is an emergency power which enables any police officer to protect a child who is reasonably believed to be at risk of significant harm. Police protection powers should be used only when necessary for reasons relating to the immediate safety of the child. Wherever possible, the decision to remove a child from a parent or carer should be made by a court. For example, an application for an emergency protection order could be used in preference to the exercise of police protection powers

Police Liaison:

The primary police involvement within the homes should be through the local police safeguarding team who will meet regularly with staff, carers and young people. The relationship should be managed jointly by Registered Managers and the police safeguarding team, with managers meeting when required.

There will be regular visits by the Neighbourhood Policing Team and/or the police safeguarding team to build a rapport with staff and children, to identify emerging problems and where possible to support staff in safeguarding the children from crime and/ or harm that may arise should they go missing from the Home.

A good working relationship is the most effective way to respond to young people with difficulties. The home managers and NH officer should develop a good working relationship in order to deal effectively and quickly where possible. Where possible a restorative outcome should be considered.

Where police are involved it is important that the staff or carers needs are met as victims of crime as well as carers. It is equally as important that residential children's homes have support mechanisms in place that support their staff where incidents have adversely affected their staff's wellbeing, particularly if incidents are to be dealt with outside of the criminal justice process.

When requested, Children's Homes will provide a representative to attend the EMRAC Meeting that addresses CSE and missing children in a multi-agency context.

Intelligence/Data 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 purposes of preventing crime and disorder. It is vital in the prevention of offending and protection of vulnerable people that agencies develop an environment of information sharing that facilitates working together and keeping each other informed.

In addition to the statutory guidance following on from the Children Act 2004 the key legal concepts, legislation and terminology relevant to information sharing are contained in:

- The Data Protection Act 2018
- The Human Rights Act 1998


Intelligence that should be shared between agencies will include the following:


- Young people believed to be criminally active
- Young people at risk of being sexually exploited.
- Areas identified as used by drug dealers in the locality of the homes
- Any information to aid the protection of young people involved in exploitation such as associates names, contact details, addresses and vehicles.

Accurate records should be maintained within the home of any incidents and involvement. The staff should raise the young person's awareness of child sexual exploitation and the dangers of undertaking certain behaviours. Diversionary activities should be considered by the homes, with the health, educational and environmental needs of the young person being considered.

Monitoring the Protocol

To evaluate compliance with the protocol regular monitoring and review will be undertaken by the partners involved in the protocol. Verbal feedback will also be requested regularly on both a formal and informal basis with key stakeholders.

Agreed by (Name)	Zahid Aziz
Position	LPA Area Commander - Thames Valley Police
Signed by	
Date	24/05/2021

Agreed by (Name)	Pete Campbell
Position	Head of Children and Family Services - West Berkshire Council
Signed by	
Date	09/04/2021

Agreed by (Name)	Esther Blake
Position	Strategic Partnership Manager, Berkshire West Safeguarding Children Partnership
Signed by	
Date	09.04.2021

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Position	
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Date	

Appendix A: Children in Care Gravity Matrix

The Gravity Matrix

When to report matters to Thames Valley Police:

The below table classifies the most common offences on a scale of 1 (low gravity) up to 3 (high gravity) based on the seriousness of each individual offence. The classifications are there to **assist** decision making and are not a definitive guide.

The impact on those involved and the risk to others and the community will always need to be considered. A report to Thames Valley Police will result in a crime report being created but the young person may not necessarily be dealt with through the criminal justice system.

Action:

Level 1: No notification required unless aggravating factors then treat as level 2

Level 2: Notify Thames Valley Police usually via 101

Level 3: Always contact Thames Valley Police via 999 or 101

Our current policy is designed to reduce the unnecessary criminalisation of young people therefore we ask care staff to try and resolve most low levels matters in house as corporate parents. However, we are aware that sometimes offences can take place that do not sit comfortably within the category of low risk. Using the attached matrix matters may be referred to the police to determine if further action is necessary.

Offence	Action	Aggravating Factors	Mitigating Factors
Serious injury (GBH)	3	Weapon used, more than one blow, unprovoked, premeditated, group action	Impulsive action, provoked, nature of injury
Medium injury (ABH)	2	Weapon used, more than one blow, unprovoked, premeditated, group action	Impulsive action, provoked, nature of injury
No or small injury (Common Assault)	1	Deliberate aggression without provocation, vulnerable victim, weapon used, premeditated, group action	Trivial nature of action, impulsive action, very minor injury
Threats	1	Words used, history between subjects, ongoing issue	
Damage	1	Damage deliberate, not reckless, group offence, high value damage, offensive to others, ongoing issue	Low value damage
Arson	2	Damage deliberate, not reckless, group offence, high value damage, risk to others	Low value damage, no risk
Articles to cause damage e.g. spray paint	1	Ongoing issues	Potential low value damage
Drugs: Supply or Possession with Intent to Supply	3		
Drugs: Possession	2		
Hoax Call	2		
Firearm or explosives	3		
Throwing stones	1	Ongoing issue	

Possession of an offensive weapon (made, adapted or intended to harm)	3		
Possession of a blade	3		
Threatening another with a weapon or blade	3		
Abusive language	1	Group action, ongoing issue, motivated by hate (e.g. racial, homophobic)	
Sexual offence	3		
Theft	1	High value, group activity, pre-planned, ongoing issue	Low value, insignificant item

Appendix B: Crown Prosecution Service 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.

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).

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*. Factors that should be considered include:

- The disciplinary policy of the Home
- An explanation from the Home regarding their decision to involve the police, which should refer to the procedures and guidance on police involvement.
- Information from the Home about the recent behaviour of the youth, including similar behaviour and any incidents in the youths 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
- 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
- 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
- Any explanation or information about the offence from the 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.

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.
- 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 C: CPS Checklist

CPS 10 Point Checklist for Offences in Children's Homes: Pro-forma

Questions 1, 2, 8, 9 +10 to be completed immediately

Questions 3-7 to be completed within 3 days

	Have you considered?	X/
1.	Disciplinary Policy of Children's Home? <i>Copies of the behaviour management policy and the 'Interagency protocol regarding involvement with Children in Care' are always available on request.</i>	
2.	Why have the police been involved and is it agreed in the policy?	
3.	Any informal action / disciplinary action already taken? <i>(Since the incident)</i>	
4.	Any apology / reparation? (Since the incident)	
5.	Victim's views? <i>Willingness to attend court, engage in a restorative intervention?</i>	
6.	Social worker's views? <i>The views of the key worker, social worker, YOT or Camhs workers involved with the young person on the effect of potential criminal justice system intervention.</i>	
7.	Care Plan for Looked After Child? <i>What is the plan regarding their placement? Is it permanent / long term? What additional support does the young person receive eg education, Camhs, YOT?</i>	
8.	Recent behaviour / incidents re looked after child? <i>Including those of a similar nature, historical relationship between young person and victim, setting the offence into context.</i>	
9.	Information about incident from looked after child (interview or other?) <i>Will be gathered from police interview.</i>	
10.	Aggravating or mitigating factors? <i>CPS / Police to complete this section.</i>	



Missing Person Form

MISSING PERSON DEFINITION

Anyone whose whereabouts cannot be established and where the circumstances are out of character or the context suggests the person may be subject of crime or at risk of harm to themselves or another.

MISSING PERSON			
FIRST NAME		SURNAME	
OTHER/NICK NAME		D.O.B.	
INCIDENT NUMBER		GENDER	

PERSON REPORTING	
NAME:	CONTACT NUMBER:

RELATIONSHIP TO MISSING PERSON:

ADDRESS DETAILS	
PLACE LAST SEEN	
TIME LAST SEEN & BY WHOM	
ADDRESS MISSING FROM (IF DIFFERENT)	
HOME ADDRESS (IF DIFFERENT)	

DESCRIPTION					
HEIGHT		BUILD		ETHNICITY	

HAIR							
COLOUR		SECOND COLOUR		STYLE		LENGTH	

FACIAL HAIR							
BEARD		MOUSTACHE		COLOUR		SIDEBURNS	

EYES					
COLOUR		SECOND COLOUR		LENSES / GLASSES	

OTHER DETAILS					
FIRST LANGUAGE		OTHER LANGUAGE		ACCENT	
ARE THEY CARRYING ANYTHING					
NOTABLE PHYSICAL FEATURES / MOBILITY OR COMMUNICATION AIDS / MARKS / SCARS / TATTOOS / JEWELLERY / PIERCINGS					

CLOTHING WORN WHEN LAST SEEN						
RECENT PHOTO OBTAINED	YES		NO		DATE PHOTO TAKEN	
DETAILS OF SCHOOL / COLLEGE ATTENDED						

DETAILS OF BANK ACCOUNT

BRANCH DETAILS					
ACCOUNT NO		SORT CODE			

PHONE DETAILS

NUMBER	SEVICE PROVIDER	CONTRACT DETAILS (i.e. bill payer)		
App for finding friends / phone in use by missing person	YES	NO	NOT KNOWN	
DETAILS				

EMAIL ADDRESS

EMAIL ADDRESS 1	
EMAIL ADDRESS 2	

SOCIAL MEDIA ACCOUNTS (Facebook, twitter, google+, Instagram)

ACCOUNT TYPE	USERNAME	PASSWORD

VEHICLE DETAILS

MAKE	MODEL	REGISTRATION

OTHER MEANS OF TRANSPORT USED BY MISSING PERSON

PLACES FREQUENTED / SIGNIFICANT LOCATIONS / PLACES PREVIOUSLY FOUND

ASSOCIATES NAME, ADDRESS AND CONTACT DETAILS

NAME	ADDRESS / CONTACT DETAILS	REMARKS
		RELATIONSHIP
		RELATIONSHIP
		RELATIONSHIP
		RELATIONSHIP
		RELATIONSHIP

NOTES
