



London Borough of Camden

Reducing the criminalisation of looked
after children protocol
2022

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Reducing criminalisation of LAC protocol

1 Introduction and purpose of protocol

LAC are more likely to enter the criminal justice system than their peers who live at home and may be dealt with more harshly because of their status. Their pre-care experiences of trauma, neglect and abuse are likely to result in behaviours that can lead to criminalisation, and they are more likely to be reported and prosecuted for lower-level offences than their peers. Consequently they are over-represented in the criminal justice system, particularly LAC from black and minority ethnic groups.

It is Camden's policy that wherever possible, LAC are not criminalised unnecessarily, and that restorative justice approaches are used to deal with incidents occurring in placement where this is more appropriate.

Camden is party to the pan London protocol *Reducing criminalisation of looked after children and care leavers*. At local level, this is implemented through this protocol for joint working agreed by the Camden Police, Children's Safeguarding and Social Work (CSSW), the Youth Offending Service (YOS) and Youth Early Help (YEH). It should be followed by all carers, keyworkers and professionals in Youth Services and CSSW.

A copy of this protocol should be provided to all accommodation providers, including providers in other boroughs.

2 Principles

The principles underpinning this protocol are:

- prioritising the needs of young people
- focussing on prevention of criminal behaviour
- listening to young people
- understanding the impact of trauma on young people's behaviour and development
- providing multi-agency responses to address all the young person's needs and the drivers of criminal behaviour
- balancing the need to protect victims and communities when deciding on responses to incidents
- promoting the use of restorative and diversionary approaches
- supporting young people in the criminal justice system to effect change
- promoting young people's mental health needs
- oversight by senior managers and the Corporate Parenting Board.

The key principle is the key question for corporate parenting standards: ***would this be good enough for my child?***

3 Prevention

In order to work successfully with young people in a preventative way, all carers, keyworkers and professionals should have a clear understanding of the impact of Adverse Childhood Experiences (ACEs) and trauma on behaviour and emotional wellbeing and how this increases the risk of criminalisation for LAC. Agencies will act to address the trauma that drives young people's behaviour in order to help them to reduce the behaviours that can lead to criminalisation.

The multi-agency LAC care planning process will be used to assess risk and plan how positive behaviour will be encouraged and supported and any issues around anti-social or offending behaviour will be dealt with; details of actions to be taken and support to be provided will be recorded in the care plan.

If a looked after young person is at risk of offending or anti-social behaviour, social workers will consider a referral to Early Help Services for an **early intervention service**. Any support or diversionary activities identified will be detailed in the young person's care plan.

Where the **YOS or Early Help** is working with a young person, there will be a high level of joint working including good information sharing, high levels of communication and robust joint planning with colleagues in CSSW.

Areas to consider are:

- the young person's mental health and emotional wellbeing and how it impacts on their behaviour;
- as non-engagement in education or training is a major driver of criminal behaviour, linking with the Virtual School to ensure the young person has access to education and training opportunities and are taking these up; referral to the NEET panel is essential;
- the suitability of current placements and accommodation in relation to reducing criminal behaviour;
- missing episodes (as these can be both an indicator of and opportunity for engagement in criminal behaviour);
- extra-familial harm and local contextual safeguarding issues, for example specific risks from the young person's community, particularly where they are placed out of borough;
- the specific needs of UASC who may have been trafficked into the UK for the purposes of criminal exploitation;
- the impact of transitions, for example changes of placement, school etc, on the young person's behaviour and potential criminalisation.

Behaviour management policies to be used:

- The Fostering Service and Resource team will ensure that all foster carers have up to date behaviour management policies and receive suitable training.
- The Resource team will ensure that residential placements have suitable behaviour management policies in place when commissioning placements.
- The Strategy and Commissioning manager for the Young People's Housing Pathway will ensure when commissioning services that housing providers within the Pathway have suitable behaviour management policies in place and that keyworkers receive suitable training.

4 Responding to incidents

4.1 Levels of intervention/actions

When dealing with incidents of challenging behaviour within the placement, carers, keyworkers and professionals should consider the nature and seriousness of the incident before responding, and balance their response between the need to contain situations and protect others and the young person's best interests. ***At all times the safety and welfare of the young person must be the paramount consideration and this principle must be the key factor when deciding on action to take.***

LAC are often reported to the police for challenging behaviours that parents would not report in relation to their own child. When responding to incidents, carers and keyworkers should consider the corporate parenting standard ***what if this were my child?***

Appendix 1 sets out levels of incidents and the corresponding responses to guide carers, keyworkers and social workers when deciding on the best action to take. When considering responses, the following should be taken into account:

- nature and seriousness of the incident
- severity of the injury or damage and/or nature of the threat to the victim
- wishes and best interests of the victim
- whether the incident was intentional or accidental
- any previous incidents
- previous relationship between the victim and offender
- previous behaviours including bullying, duress, peer pressure
- probability of repeat incidents
- appropriateness of police action and its impact on the future best interests of parties

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- whether restorative approaches may be better.

Carers, keyworkers and professionals will ensure that the views of young people are taken into account when dealing with incidents and deciding on the best response. Young people will be given an opportunity to talk through incidents with carers, keyworkers or social workers so that incidents can be understood from their perspective.

When making decisions, carers, keyworker and professionals should be aware of the long-term effect on the young person's future of having a criminal record and should consider if this would have a disproportional impact on their lives balanced against the seriousness of the incident.

4.2 Police action

- The police will assess all calls from care settings to decide if it is appropriate to attend.
- Following attendance, the police will advise care settings on the next steps, including whether the matter should be dealt with under internal resolution procedures.
- Where an incident is investigated, the police will decide whether the matter is serious enough to warrant referring the young person to the YOS for an out of court disposal.
- For more serious offences, the police will decide whether to refer the case to the CPS, who will take the young person's LAC status into account when deciding whether to prosecute.

4.3 Room searches

In order to safeguard young people, in particular those who may be experiencing criminal exploitation or involved in gang activity, it may be necessary to search a young person's room for drugs or weapons. Young people should be informed in writing on moving into the placement that room searches may be conducted under these circumstances.

Room searches should only be carried out where there is a reasonable belief that the young person is in possession of drugs or weapons and where possible, should be discussed and agreed with the social worker and professional network in advance unless this would place the young person at further risk.

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Young people should be asked for consent to the search in the first instance but should be informed that where there are safeguarding concerns, their consent is not required and the carers and care providers have a right to enter the room in order to carry out a search. In general, and where possible, young people should be present during the search unless this is not practicable.

Police searches may be conducted with the consent of the owner or controller of the premises; this means carers and care providers may give consent to the police to enter and search a young person's room.

4.4 Illegal substances

LAC may misuse substances as a means of dealing with trauma, and apart from the risk to their mental and physical health, their drug use may also expose them to wider risks within the community. It is also possible that the young person is in possession of drugs due to criminal exploitation.

- Carers, keyworkers, professionals and police will share information and intelligence about drugs and dealing in the area via the MACE group to ensure information is available about individual young people who are using and may be involved in dealing drugs and where residential placements may be targeted by drug dealers.
- Young people who are misusing substances will be referred to the FWD service to help them address their substance misuse. Young people placed in neighbouring boroughs may access FWD services but those placed further afield will be referred to a suitable local resource.
- Where carers and keyworkers find drugs in a young person's room following a room search, actions taken will be influenced by the perceived level of safeguarding risk to the young person based on the type and quantity of the drugs found.
- For small amounts of Class B drugs that is likely to be for the young person's own use, the substance will be confiscated and disposed of safely and the police may not be informed. However, the social worker should always be informed so that the young person can be referred to FWD and to allow the social worker to assess how this impacts on the young person's welfare.
- For Class A drugs or large amounts of any class of drug that suggests the young person may be involved in dealing, the carer or care provider should inform the social worker and the professional network should discuss the most appropriate action. The police should also be informed, particularly if there is

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cause to believe the young person is being exploited or if there have been repeated incidents of possession of drugs.

4.5 Weapons

Under the Offensive Weapons Act 2019 it is an offence to be in possession of certain weapons, whether in public or private spaces; details of the weapons can be found at this link. <https://nbcc.police.uk/guidance/offensive-weapons-act-2019>

If any of these items are found in a young person's room following a search this **must** be reported to the police. The matter should also be notified to the social worker and the professional network to decide what action needs to be taken to safeguard the young person. The police should also be involved in any discussions.

For other items such as kitchen knives, it would not be an offence if the weapon was found in the young person's room as this is not a public space but if it is known that the young person is carrying the weapon in public, this information should be shared with the police as this is potentially a criminal offence and raises of potential harm.

Therefore:

- the weapon should be confiscated
- the allocated social worker should be informed
- a referral should be made to Early Help Services
- the information should be passed to the police as intelligence
- the professional network should consider any risks to the young person's safety.

Extra familial harm and child exploitation

LAC are vulnerable to extra-familial harm arising from risks within the community and their peer group, and because of their vulnerability, may be targeted by adults in order to groom them for criminal and sexual exploitation. This may result in children becoming involved in criminal activity under duress, particularly those exploited through drug dealing on the county lines model.

Carers, keyworkers and professionals will follow the CSCP guidance on child exploitation and extra-familial harm and carry out risk assessments for CSE and CCE in order to inform actions.

[CSCP-extra-familial-harm-and-child-exploitation-guidance.pdf](#)

Missing episodes

As part of the preventative strategy, carers; keyworkers and professionals will remain aware of patterns of going missing from placements as these provide opportunities for grooming and/or may indicate the child is already being exploited. It is essential that the CSCP *Missing* protocol and the Philomena Protocol are followed and missing episodes are reported and acted on.

[CSCP missing protocol \(cscp.org.uk\)](http://cscp.org.uk)

If a young person who is subject to bail or remanded to local authority accommodation goes missing, they will be considered to have absconded under the *Missing* protocol and carers and social workers should report this to the police as a breach of conditions. In these circumstances, the police department leading on locating the missing young person will retain close communication with the social worker to update information on progress and actions taken to locate the young person.

5 Restorative justice

Camden's approach is to use restorative justice approaches such as conferences or mediation that are used to deal with incidents in placements where this is more appropriate. The purpose of this approach is:

- to keep LAC out of the criminal justice system where it is inappropriate
- help them to consider the impact of their behaviour
- deter them from further criminal or anti-social behaviour in the future
- safeguard placement stability and improve relationships between LAC and carers.

Restorative approaches focus on building relationships, engagement and fostering positive behaviours and values, and will provide flexible support tailored to the needs of the child.

Restorative interventions can take place informally and swiftly or can be carefully planned and co-ordinated in order to meet the needs of all those involved and to be as responsive as possible to the harm caused by the incident. Restorative interventions are based on the principles of understanding the harm caused by an incident, the impact on the victim, and what would help to repair that harm. To be effective, the process and engagement of parties must be respectful, voluntary and impartial.

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To implement this protocol, foster carers and keyworkers will have access to restorative practice training so that they are confident in the key principles of how to apply restorative approaches with children. Staff can also get advice and support from the restorative approaches lead based in the Integrated Youth Support Service on 0207 974 5457.

6 Recording

Foster carers and keyworkers will follow recording policy for the setting and ensure accurate, contemporaneous records are taken of incidents including:

- details of the incident
- details of any items confiscated and/or destroyed/handed to the police
- actions taken, including any de-escalation techniques used
- reasons for decisions taken, ie; for reporting to police etc
- who was notified of the incident
- what happened following the incident to debrief the young person
- views of the young person on the incident.

Foster carers and keyworkers should use moderate, professional language and avoid using emotional terms and the record should be shared with the young person. Any risk assessments will be updated following incidents.

7 Out of borough placements

As this protocol has been adopted across London, incidents involving children placed within will be dealt with in a reciprocal manner under this protocol.

If a child who is at risk of coming to the attention of police is being placed out of London, commissioners will liaise with providers, the local authority and local police to agree what actions need to be taken to reduce any risk to the child and how to deal with incidents. In these cases, providers will be asked to implement this protocol as far as is possible locally.

8 Preventing escalation within the criminal justice system

It is essential that the needs of young people who are already in the criminal justice system are considered when planning preventative work, including those on remand, in custody and who are about to be released. It is vital that work continues to divert the young person and reduce the risk of repeat offences and that CSSW and YOS follow shared policies and protocols.

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Looked after children who are also known to the YOS will be receive multi-agency, joined-up support to ensure that their needs as a child remain central to decision-making. Children with complex presenting issues that may lead to placement instability will receive support from consistent key professionals to help them build relationships regardless of where they are placed. Children will also have access to good legal representation to support them in criminal proceedings.

Any instances where a looked after child is escalated through the youth justice system will be discussed at the High Risk and Vulnerability Panel and at senior management level to review the support in place and monitor steps being taken to mitigate risk.

9 Care leavers

Although this protocol only applies to LAC up to the age of 18, the principles of this protocol will continue to apply to young adults living in the Camden Housing Pathway. The Leaving Care service will continue to work with care leavers to address any vulnerabilities and criminal behaviours through pathway planning and support those who enter the criminal justice system.

Where the YOS is working with a care leaver up to the age of 19, the service will continue to work in partnership with CSSW to implement their pathway plan and intervention plan and manage any transition to the Probation Service.

Additional support will be available from the specialist Evolve team that supports young people aged 18-25 who are affected by youth violence and exploitation. The team works with young people who:

- are affected by or at risk from youth violence, gangs and exploitation and
- are aged between 18-25 and
- agree to work with the team.

The team will work with young adults to explore their hopes and needs and support them on their journey of meaningful change. The team will work in a range of settings maintaining a clear focus on the prevention of young people's participation in gang activity, violence and other group offending and those who are vulnerable to exploitation.

10 Monitoring and quality assurance

- The Corporate Parenting Board will have overall responsibility for monitoring the rate, frequency and levels of intervention of incidents in order that the Board is satisfied that incidents are being dealt with appropriately under the protocol.
- All incidents involving police being called to a placement will be discussed at the young person's statutory LAC review and where it is the opinion of the review that this protocol has not been followed, the IRO will raise this with the LACCL service manager, fostering manager and Resources team who will take action with the provider.
- Incidents occurring in the Camden Housing Pathways accommodation will be reviewed by the Young Persons Pathway Panel who will liaise with providers where there are issues in implementing the protocol.
- The Head of Service and Service Manager for LACCL will be responsible for providing a report of incidents to the Board and the Quality Assurance Unit will support them by providing relevant management information.
- Camden Police will provide information on call outs to placements on a quarterly basis and these will be scrutinised by the LACCL management.
- Everyone involved in monitoring this protocol should be aware of the specific issues arising for children from black and minority ethnic groups and should ensure that the operation of this protocol does not in any way discriminate against them.

Appendix 1: Levels of response to incidents

	Description of incident/behaviour	Response
Level 1	<p>Low level incidents such as:</p> <ul style="list-style-type: none"> • minor criminal damage • assaults resulting in minor injuries first occasion of possession of Class B or C drugs 	<ul style="list-style-type: none"> • Internal response using restorative approaches • Notify social worker (and YOS worker if involved) • Referral to Youth Early Help for support services • Where appropriate, referral to CAMHS <p>Incidents may be reported to the police where there are prolonged attacks or repeated incidents</p>
Level 2	<p>Incidents of a more serious nature that can be dealt with internally or may be reported to the police depending on the circumstances, for example:</p> <ul style="list-style-type: none"> • moderate criminal damage • assaults resulting in moderate injuries requiring medical attention • persistent possession of Class B or C drugs • possession of Class A drugs • minor thefts 	<ul style="list-style-type: none"> • Where appropriate, internal response using restorative approaches • Notify social worker/EDT (and YOS worker if involved) • For residential homes, report to the registered manager • Referral to Youth Early Help for support services • Where appropriate, referral to CAMHS <p>Level 2 incidents should be reported to the police where this is the wish of the victim but do not need to be reported immediately. Carers and keyworkers should consult with social workers to consider all factors and make a decision on reporting.</p>
Level 3	<p>Serious incidents involving immediate harm that cannot be dealt with internally and require an immediate police response, for example:</p> <ul style="list-style-type: none"> • immediate serious physical injury • substantial damage to property • significant disorder in the placement • incidents involving sexual assault or sexual exploitation 	<ul style="list-style-type: none"> • Notify social worker/EDT (and YOS worker if involved) • For residential homes, report to the registered manager • Referral to Youth Early Help for support services • Where appropriate, referral to CAMHS

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	<p>Other incidents that do not require an immediate response from police but do need to be reported include:</p> <ul style="list-style-type: none">• repeated possession of Class B or C drugs• possession of Class A drugs• possession with intent to supply• possession of a weapon	<p>Incidents must be reported to the police and should be reported immediately where the incident cannot be contained by the carer/keyworker and there is a risk of significant harm.</p> <p>For other incidents, carers and keyworkers should consult with social workers to consider all factors and make a decision on reporting.</p> <p>Serious incidents should be notified to the social worker/EDT (and YOS worker if involved) immediately and the IRO should be consulted on whether to bring forward the LAC review.</p>
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