



Children's Safeguarding and Social Work

Corporate Parenting Service

Working with looked after children in the
criminal justice system: practice guidance

CLA within the criminal justice system

1 Introduction

This document provides guidance for social workers and Youth Justice workers working with looked after children who are in contact with the criminal justice system. The document provides details of local procedures and practice and should be read together with the *Looked after children and young people in contact with the Youth Justice system* policy. [Looked After Children and Young People in Contact with...](#)

2 Reducing offending behaviour

- Looked after children are generally over-represented in the criminal justice system and are more likely to enter the criminal justice system earlier than their peers. This is because they are more likely to be prosecuted for low level offences such as criminal damage, particularly if they live in residential settings.
- Care planning processes are a key element in reducing offending behaviour where this is a presenting problem for CLA.
- Care planning should address 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 should be clearly recorded in the care and placement plans.
- If a looked after young person is at risk of offending or anti-social behaviour, social workers should consider a referral to One Point of Access so that the manager can refer the young person on for an early intervention service from IYSS. Any support or diversionary activities identified should be detailed in the care plan.
- Where the YJS are working with a young person, there should be good information sharing, high levels of communication and robust joint working practices in place between YJS and CSFH.
- One of the key risk factors of offending behaviour is not being in education, employment or training (NEET). Looked after young people who are NEET will be discussed during social worker's supervision and referred on to the NEET panel for further support.

3 Restorative justice and reducing the criminalisation of CLA

- It is Camden's policy that wherever possible, CLA are not criminalised unnecessarily and that restorative justice approaches such as conferences or mediation are used to deal with incidents in placements where this is more appropriate.
- Placements have a duty to minimise the need for police involvement and avoid criminalising children. Residential units should have a policy in place agreed with the local police regarding their involvement in responding to and dealing with incidents.
- Camden's Family, Friends and Fostering Service and the Resources service should work with foster carers and residential settings together to increase the use of restorative justice approaches for CLA. Foster carers and residential staff should be trained to understand the importance of using this approach and how it will improve outcomes for CLA.
- When deciding on whether to involve the police, carers and residential workers will consider all the relevant facts of the incident, the circumstances of the young person and the vulnerability of others in the placement. The following guidance is based on the Crown Prosecution Service guidance.
- Consideration should be given to involving the police where:
 - the offence is violent or sexual in nature
 - the offence can be described as a hate crime
 - the victim of the offence is particularly vulnerable
 - any damage or harm caused is deliberate **and** substantial
 - the offence is part of a series of offences
 - informal measures to prevent offending behaviour have been unsuccessful
 - there is a high risk of the young person causing serious harm.
- In general, the police should not be involved where:
 - there has been minor harm or damage done and this has since been put right
 - other appropriate action or sanctions have been taken
 - there is genuine remorse or an apology made to the victim
 - the behaviour is a symptom of an illness that cannot be medically controlled

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- it is an isolated incident that is out of keeping with the young person's character
 - the young person was under undue stress at the time or was clearly provoked.
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- Any decision about involving the police or not should be clearly recorded in any log of the incident and discussed with the young person's social worker and the foster carer's supervising social worker. Additionally, if the young person is being supervised by the YJS, a copy of the incident report should be shared with the allocated YJS case manager.

Please refer to the *Reducing the criminalisation of CLA protocol* for details on how to deal with incidents in placement. [reducing-criminalisation-of-lac-protocol.pdf](#)

4 Looked After Children placed outside Camden

- Where a young person is accommodated out of the borough and is known to Camden YJS, the team will continue to provide a full service as Camden continues to be the young person's corporate parent and YJS must remain involved.
- Some functions may be delegated to local YJS services in a care-taking capacity if the young person lives at some distance from Camden and this makes it difficult to manage the case or if the young person would be at risk if they returned to Camden. This is to ensure:
 - continued YJS intervention for the young person in the home authority
 - high quality information sharing on the young person's offending behaviour
 - consistent approaches to working with the young person between the authorities
 - compliance with Camden's YJS policies and practices
 - services are delivered within national standards
 - where possible, restorative approaches are used as per the agreed national standards.

5 Procedures

5.1 Notification of arrest

- Where a young person is looked after by Camden, YJS will notify the allocated social worker, leaving care team and the IRO within 24 hours of any:
 - arrest and reason for arrest
 - court appearance
 - remand
 - sentence
 - release date from custody.

- On receipt of a Police MERLIN or custody record, YJS will process the referral via the One Point of Access and as part of this process, will contact the allocated social worker to share up to date information about the arrest and reasons for arrest.

- Foster carers and their supervising social workers will be kept informed of the situation, and foster carers should notify the child's social worker and their supervising social worker whenever a looked after child is arrested. All services must keep each informed and notified of any events.

- Whenever a CLA is arrested or charged, it is important that their care plan is kept under review to deal with issues around bail and what will happen in the event of a custodial sentence. The allocated social worker and IRO must discuss what actions need to be taken and whether a statutory CLA review needs to be convened immediately in order to update the care plan.

5.2 Appropriate adults

- Foster carers, social workers and YJS case managers should link with each other to ensure an appropriate adult is present at the police station for any CLA under the age of 17 or who is aged 17 and over and is particularly vulnerable, for example has learning difficulties. Action should also be taken to ensure the young person has legal representation from a lawyer with experience of youth justice.

- The young person's foster carer or social worker will normally act as appropriate adult but YJS (or EDT out of hours) can help to provide an appropriate adult service if no-one is able to attend.

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- Where the young person is known to YJS, social workers should link with the YJS case manager to ensure that all relevant information about the child and their circumstances is available when decisions are made on whether or not to prosecute, particularly if the offences are minor.
- Where the child or young person is unknown to the YJS but the social worker believes there are exceptional circumstances linked to the offence, the social worker should email the YJS police on their internal Camden YJS emails for advice.

5.3 Safeguarding young people held in custody in police stations

- Young people who are held in police stations overnight are considered vulnerable to risk of harm. If a young person under 18 has committed a serious offence they may be refused police bail and will need to be held overnight prior to their court appearance.
- Section 38 of the Police and Criminal Evidence Act 1984 states that the local authority should provide the young person with accommodation (known as a section 38 PACE bed) if requested by the police.
- In these circumstances, the London protocol for providing accommodation to children in custody will apply. [London-Protocol-for-CiC-plus-Concordat-website-vsn-02.07.19.pdf \(londonscb.gov.uk\)](#)
- The YJS case manager will contact the Resources team manager (ext: 1238) or the EDT manager out of hours (020 7974 4444) to discuss the case. Provision of accommodation will depend on placement availability and the risk the young person may present to others in the placement.

5.4 Court appearance and bail applications

- Social workers should link with YJS case managers to ensure that all relevant information about the young person and their circumstances is available to the court.
- Social workers and the Family, Friends and Fostering service should ensure continuity of placements or provision of appropriate alternative accommodation that enables the young person to meet bail requirements

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- YJS should where possible, advocate strongly for bail to be granted and provide evidence that a robust bail support package will be put in place to support the young person.
- In the first instance, the young person should be able to return to their current placement with support from YJS to meet any bail conditions. This could include a bail support package or in cases where the young person is at risk of custody, Intensive Supervision and Surveillance (ISS).
- In cases where this is not possible, for example where the previous carer is the victim, social workers should link with the Family, Friends and Fostering Service to identify another suitable placement and avoid them being remanded into custody.
- If a young person is remanded into Youth Detention Accommodation (YDA), the YJS case manager should refer to the *Remand into local authority accommodation* policy and must link with the young person's legal representative in order to continue to apply to the court for bail during the remand period. [Remands to Local Authority Accommodation or to Youth...](#)

5.5 Attendance at court

- It is an expectation that all CLA are accompanied to court hearings by either their foster carer or key worker and the allocated social worker. This is to ensure that the young person is supported and that any decisions are in their best interests
- The social worker is responsible for ensuring representation at court and also that the YJS court worker has all relevant documents and information to make available to the court during proceedings.

5.6 Pre-sentence reports and other assessments

The social worker should link with the YJS case manager to provide information for the ASSET and pre-sentence report. The social worker should also be able to provide the court with relevant background information for the following purposes:

- assessment of the young person's vulnerability in the event that they receive a custodial sentence
- information on community support available to help the young person fulfil the requirements of any community-based sentence and placement stability.

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5.7 Court outcomes

- If a representative of CSFH is not attending court, arrangements should be agreed with the YJS court worker regarding the person in CSFH who needs to be notified of the outcome; this is especially important if the young person may receive a custodial sentence.
- After sentencing, the social worker (or their manager in their absence) should be notified and in turn should notify the foster carer or key worker and the Family, Friends and Fostering Service so that arrangements can be made regarding the placement.

5.8 Community sentences

- A community sentence will not affect the young person's legal status and they will remain looked after. In these circumstances social workers should carry out the following:
 - liaise with the Family, Friends and Fostering service or Resources service to ensure the young person can return to placement or has a suitable alternative available
 - contact the IRO to discuss the case and make arrangements to bring forward the young person's statutory CLA review
 - link with YJS to agree roles and responsibilities and obtain information about any surveillance or reporting requirements in place for the young person
 - ensure the allocated YJS case manager is invited to the statutory CLA review
 - ensure that care plans incorporate/take account of YJS integrated plans in order to avoid conflicts or duplications in the 2 plans.
- The review should agree how the social worker and foster carer will work with YJS to ensure that the young person is able to comply with the terms of their sentence, including allocating tasks and agreeing roles and responsibilities.

6 Custodial sentences

- Secure establishments include secure training centres (STC), young offenders institutes (YOI) and secure children's homes (SCH) and are allocated by the Youth Justice Board.
- However, the YJS case manager and social worker should advocate for the most suitable establishment for the young person, taking into account distances to be travelled by families for contact and the young person's vulnerability. Staff should refer to the YJB "placement review process" policy for details on requesting changes to placement.
- Where a looked after child receives a short custodial sentence, but had previously made good progress in their placement, the social worker should contact the Resources service or the Family, Friends and Fostering Service in order to negotiate with their former carer to keep the placement open until the young person's release.
- Details on CSFH continued responsibilities to CLA who are given custodial sentences can be found in the *Looked after children and young people in contact with the Youth Justice system* policy. [Looked After Children and Young People in Contact with...](#)
- In cases where the young person was accommodated prior to custody, there should be a discussion between the IRO manager and the CLA service manager to decide on the following:
 - depending on the length of the sentence, whether the young person will be accommodated on release
 - whether the young person can return to their placement on release
 - whether the case will remain open and allocated to the current worker or if another social worker will be allocated to carry out visits and assessments
 - if or when the case will be transferred to the leaving care service.

7 Community support

- Young people returning to the community will be supervised by their allocated YJS case manager but the allocated social worker must keep in touch in order to support the young person as they will be particularly vulnerable.

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- Tasks to be carried out (which may be shared with the YJS case manager) are helping and supporting the young person to:
 - readjust to open living
 - meet the conditions of their licence or reporting requirements
 - sort out finances and settle into accommodation
 - return to work or college
 - re-establish relationships with family and friends
 - avoid re-offending.
- The YJS case manager will agree an integrated plan with the young person and their social worker for the community element of the young person's sentence. The integrated plan should incorporate relevant elements of the care plan to ensure the work undertaken supports the young person.
- CLA reviews should continue to plan support for the young person, and the YJS case manager should attend to provide updates on the implementation of any intervention plan and the young person's progress in complying with any licence conditions as well as updating any assessments.
- Between reviews, the YJS case manager and the allocated social worker should keep each other informed of any significant events, including:
 - changes in care or intervention plans
 - failure to comply with licence conditions
 - court dates following enforcement
 - recommendations made by the YJS for the young person
 - appearance at Court for breach of license
 - further offending behaviour
 - changes in placement
 - changes in allocated worker.
- Any major issues should be reported to the IRO who may decide to bring forward the CLA review.

8 Long sentences

- CLA who commit serious crimes that carry longer sentences may be likely to remain in custody beyond the age of 18 and will be transferred to adult prisons. At this point, the role of CSFH will be to support the young person in the transition to the Probation Service and ensure any other adult services that the young person needs will be put in place.

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- Social workers and YJS case managers should assess the possibility of the young person being supported by their family during their sentence and of returning home on release. Any plan of release should be discussed with YJS and Probation but it is likely CSFH will have a limited role unless the young person qualifies for a leaving care service.

9 Financial support for CLA serving custodial sentences

- CSFH has a duty to support CLA in custody and this will include providing a personal allowance to the young person to cover the costs of sundries such as snacks, magazines, toiletries etc.
- The amount of the personal allowance should be based on an assessment of their need and will be subject to any rules the secure establishment has on what monies young people are allowed to receive.
- If the young person is subject to a care order they will continue to be eligible for birthday and Christmas allowances. These allowances should continue to be paid into their bank account or set aside for them to access on release.
- Young people who are sentenced to more than 6 months in custody should be assessed for a clothing allowance on release.

10 Homeless young people leaving custody

- Some young people aged 16 or 17 who were not accommodated by CSFH prior to receiving a custodial sentence may require accommodation under section 20 on release as they will be homeless.
- The YJS case manager must ensure that a timely referral is made to CSFH so that a homelessness assessment can be carried out and a suitable place on Camden's Young Person's Housing Pathway allocated. This will normally be discussed at the resettlement meeting.
- The CLA social worker allocated to carry out the assessment should attend sentence planning review meetings, especially the final review before release and arrangements should be made for the social worker to visit the young person prior to release in order to carry out the assessment.