



Kent & Medway Joint Protocol on Criminal Justice Agency Involvement with Children in Care

November 2014

Version Control

Date	Version	Change	Sections Affected	Approved
08.08.13	0.1		First Draft	
10.10.13	0.2-0.4	57111 Jedrzejewski	All	
17.10.13	0.5	57111 Jedrzejewski	All	
04.11.13	0.6-0.7	57111 Jedrzejewski	All	
12.11.13	0.8	57111 Jedrzejewski	All	
21.11.13	0.9	Paul Brightwell	All	
08.01.14 – 06.11.14	0.10-14	David Jedrzejewski	Various	

Table of Contents

INTRODUCTION 4

DECIDING WHETHER OR NOT TO INVOLVE THE POLICE 4

 Liaison 5

 Individual incidents 5

 Internal Incidents 6

 Incidents not requiring immediate police response..... 6

 Incidents requiring an immediate police response..... 6

REQUIREMENT FOR POLICE INVOLVEMENT 8

 Factors to be considered 8

 Violence by a CYP on another 8

 Violence to staff or foster carers by a CYP..... 9

 Criminal damage within the home or placement, or to staff or carers’ cars or property 9

 Theft within the home or placement..... 9

 Disorder in or around the home or placement 9

 Trespass within and around Home or Placement10

 Hate incidents and crime10

 Definitions.....10

 Substance misuse11

 Reducing the risk of drug taking11

 The discovery of drugs within the placement setting.....12

CHILDREN MISSING OR ABSENT FROM CARE13

INFORMATION SHARING13

RECORDING OF INCIDENTS13

 By residential staff13

 By foster carers13

 Whether to record (police).....14

 3rd Party Report.....14

 When to Record (Police).....14

 Recording of incidents requiring an immediate police response.....15

 Recording of incidents not requiring an immediate police response15

PROSECUTION OF INCIDENTS BY CROWN PROSECUTION SERVICE15

MONITORING & SIGNATORIES17

Appendix A.....18

Appendix B- CHILDREN’S HOMES DECISION TO INVOLVE POLICE18

Appendix C CHECKLIST TO BE USED WHEN DECIDING WHETHER TO INVOLVE THE POLICE19

Appendix E - GUIDANCE ON INFORMATION SHARING19

Appendix F - EXPLANATION OF DISPOSAL OPTIONS21

Youth Caution.....21

Appendix G - COMMUNITY RESOLUTION - KENT POLICE GUIDANCE TO BE ADDED26

Appendix H – Agency Roles and Responsibilities33

INTRODUCTION

1. This protocol aims to reduce the prosecution of Children in Care (CIC), wherever possible, by encouraging the use of alternative resolution approaches such as restorative justice. This protocol outlines in a clear and concise manner an approach to the management of CIC by all agencies that have management responsibilities for this group or have or could have contact with CIC.
2. This protocol is based upon the good practice already in place across the south east region and is aimed at meeting the needs of Children in Care (CIC) within children's homes and foster placements. It sets out the roles and responsibilities of agencies in managing and reducing the offending by CIC, particularly providing guidance to support the decision making of parents and carers as to when to involve the Police.
3. It is anticipated that the standards and guidance contained within the Protocol will act as a framework for ensuring best practice in dealing with CIC across Kent and Medway. The Protocol aims to strike a balance between the rights and needs of the children and young people (CYP), the rights of staff and foster carers, and the decision to involve the police and/or Crown Prosecution Service (CPS).
4. The Protocol supports Department of Education National Minimum Standards for Children's Homes, which state that 'the homes' approach to care minimises the need for police involvement to deal with challenging behaviour and avoids criminalising children unnecessarily".
5. The Protocol recognises the value in strengthening the use of restorative justice (RJ), which is a process whereby the victim has an opportunity to be heard and to state the impact of the behaviour and the offender has the opportunity to take responsibility for his or her actions. Approaches can range from internal mediation within children's homes between young people and staff without involving the police, to Restorative Resolution which does involve the police.
6. The Protocol underlines the importance of regular and effective liaison between children's homes staff and managers, the social worker and managers, the Youth Offending Service, Police, and *Youth Specialist Prosecutors*.
7. This protocol does not cover the procedure for managing children or young people missing from the home environment, as this is covered by a separate document. However, it is hoped that improved working relationships, as a result of this protocol and the increased use of RJ will impact positively on the management of CYP missing from home.
8. The protocol has been developed in consultation with key partner agencies such as Kent County Council, Medway Unitary Authority, Kent Police, the CPS, and Her Majesties Court Service (HMCS).

DECIDING WHETHER OR NOT TO INVOLVE THE POLICE

9. It is recognised that caring for, and managing CYP with difficult or challenging behaviour is an integral feature of residential care and fostering work. Children's home staff and foster carers will generally manage problematic situations except where they are so severe that immediate police involvement is essential in order to avoid physical assault or damage.

10. While Children's home staff have an obligation to report known or suspected crimes to the Police, they will need to use their judgement about where the threshold lies, particularly if the information to hand is slight and the crime, or suspected crime is not considered to be serious.
11. Foster carers will need to consult with their social worker or foster care out of hours service to determine if they need to inform the police.
12. Some offences, such as rape, indecent assault, firearms offences or offences which are likely to lead to serious injury, serious harm to public order or serious financial loss will always be treated as serious and will always be reported to the Police. In addition, any incident which, in the view of the young CYP or member of staff has led, was intended to lead or was likely or threatened to lead to serious loss or harm to any person, should be treated as a serious incident.
13. The fact that staff or carers report an incident does not mean that the police will follow a pre-determined course of action or, in some cases, any action at all. Wherever possible, the most appropriate response will be decided following discussions with all interested parties. Particular weight will be given to the views of the victim

Liaison

14. Police involvement in children's homes could be through Community Safety Units, Safer Schools Partnership (SSP) Officers and Missing Person Liaison Officer (MPLO). (See Appendix A for contact details). It must be emphasised that a good working relationship is the most effective way to respond to young people with difficulties, and it is in this area that consideration should be given to joint agency training.
15. Regular liaison meetings between the identified Police points of contact and staff in children's homes are recommended. These will support co-operation, develop a better understanding of each agency's responsibilities and practices and support information sharing. This liaison will allow for discussion of those incidents not requiring an immediate police response and support the decision making may, at times result in the Police being invited to attend internal action being taken to prevent further behaviour escalation.
16. It is not the intention of this Protocol to restrict the options available to foster carers and staff in children's homes and police but to emphasise the importance of flexibility in determining the most suitable option for dealing with CYP. Additional advice and support can be sought from the child's social worker.

Individual incidents

17. The Protocol identifies three categories of incident, and outlines how each category should be dealt with:
 - Internal incidents
 - Incidents not requiring immediate police response
 - Incidents requiring immediate police response

A flow diagram is shown at Appendix B.

Internal Incidents

18. It is anticipated that relatively minor incidents will be addressed by using routine internal policies and procedures. Referral to the Youth Offending Service for the area should be considered. This relates to the preventative approach.

Incidents not requiring immediate police response

19. An incident where no immediate police response is required, for example where assault or damage has occurred and there is no risk of reoccurrence/significant harm to people, or incidents of theft. The incidents should be reported to the Registered Manager who then has the responsibility of identifying the appropriate course of action. Foster carers to liaise with the out of hours foster care service. In addition Foster Carers or staff within the home should inform the CYPs social worker at the first opportunity.

20. Whilst it is important to avoid any unnecessary reporting of incidents to the police, should the Registered Manager or Foster Carer in consultation with foster care out of hours service or their allocated social worker, decide and/or the victim wishes that formal police involvement is necessary, where possible this should be through on-going liaison with identified Police contact.

21. When a situation involving a child or young person is to be discussed at the regular meeting the child's Social Worker should be informed and they may wish to join the discussion. Foster carers are to update the foster care social team and foster care out of hours.

22. If the discussion needs to be held sooner, the Registered Manager or Foster Parent (via their allocated social worker or foster care out of hours) should arrange for a member of the Community Safety Unit to visit the home as soon as possible or out of hours foster care service respectively. If no member of this team is available, the Manager or foster parent should contact the Kent Police Control Room to request an appointment.

23. In certain circumstances preservation of evidence may be an issue and residential staff will need to ensure that reasonable steps are taken to retain articles relevant to any criminal allegation or police investigation.

24. A referral to the Youth Offending Service for the area from the social worker working with the foster carer or registered children's home should be considered for those incidents considered not requiring immediate police response or internal.

Incidents requiring an immediate police response

25. Incidents requiring an immediate police response, which should attract a 999 response, where the CYP, foster carer or residential staff are at risk of:

- Immediate threat of or actual serious physical harm
- Substantial damage to property, or
- Significant disorder with the home or placement.

- When a child in care commits a sexual assault against the foster carer or care home staff or there is suspicion of sexual exploitation of a child in care.
26. All professionals working with children and young people need to be alert to Child Sexual Exploitation. Boys as well as girls are sexually abused and children who become looked after are more vulnerable to this kind of exploitation.
27. Many of the indicators of child sexual exploitation are also part of normal teenage behaviours and it is the presence of higher risk factors, or multiple other factors which may be indications of child sexual exploitation.
28. Care staff and their managers need to use their judgement as factors may be more concerning in relation to a particular child's circumstances.

The following are some of the indicators that should raise concerns:

- Homelessness / Social exclusion
 - Young people with learning disabilities
 - Low self-esteem or confidence
 - Friends with someone already being exploited
 - History of abuse
 - Bullying / Racism / Homophobia, unsure of sexuality or family unaware
 - Any other issue making a child / young person vulnerable
 - Missing from home, care or school
 - Collected from home or school by unknown cars
 - Secretive mobile phone use
 - Friends with significantly older people
 - Physical injuries / unexplained bruising
 - Drug and alcohol misuse
 - Becoming involved in crime e.g. stealing
 - Sexually transmitted infections / pregnancy / termination
 - Change in physical appearance
 - Evidence of Internet vulnerability or bullying
 - Unexplained gifts or money
 - Estranged from family
 - Poor mental health / self-harm / thoughts of suicide
 - Recruiting friends into exploitative situations
29. Where child sexual exploitation is suspected the worker should discuss their concerns with their manager and consider a referral to children's services and the Police Public Protection Unit or ask for a consultation to discuss their concerns.
30. Where children's home staff or foster carers discover indecent images often known as sexting then they need to approach the situation with great sensitivity. This is likely to be very distressing for a child. The aim is to establish the circumstances around the sexting. Is it innocent exploration or is there any indication that there is grooming or exploitation involved? There are two documents that will assist in determining what action to take. The first is Sexting in Schools Advice and Support Around Self-generated Images and the second is the Procedures for Assessing Children and Young People who Exhibit Sexually Harmful Behaviour (Currently in draft) Both give invaluable advice. Carers should seek the advice of managers, children's social services or the police in

these cases and any other cases where internet devices may be being used to exploit children.

REQUIREMENT FOR POLICE INVOLVEMENT

31. Staff and foster carers need to consider the **nature** and **seriousness** of the incident and if practicable staff should discuss with the Registered Manager before deciding whether to involve the police immediately, at a later stage, or whether to involve them at all. In all circumstances matters should be entered in an incident log for residential children's homes, and in the incident log file for foster carers.
32. It is crucial that communication between children's home staff, foster carers and the police regarding an incident is clear and factual.

Factors to be considered

33. The following factors should be considered when determining what action to take. The list is not exhaustive, and does not reflect any order of priority:
 - Nature and seriousness of the allegation
 - Severity of the injury sustained/nature of 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
 - Previous relationship between victim and offender
 - Previous behaviour or offending, bullying/peer pressure/duress
 - Probability of a repeat incident
 - Potential impact on the child/young person following formal police involvement
 - Appropriateness of police action/court proceedings
 - Future best interests 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
34. The following situations are the most common ones in children's homes where police involvement might be requested. (Please also refer to the Checklist at Appendix C.)

Violence by a CYP on another

35. These are incidents between residents within the home ranging from minor disagreements through to serious assaults where physical injury is caused. Such incidents can be complicated by having two vulnerable parties. Residential staff and foster carers will need to ensure that health and safety reporting procedures are

followed, and will also need to follow their own internal policies for dealing with violence in the home.

Violence to staff or foster carers by a CYP

36. Violence towards staff members or carers can vary from verbal threats to physical acts amounting to assault. Whilst each home and placement has the responsibility of care towards young people their welfare needs to be balanced with the rights of staff and carers not to be subjected to violence in the course of their duties.

37. Such incidents are affected by factors similar to those listed above, and staff and carers should be encouraged to report any incidents that cannot be dealt with through alternative means. Where there is no immediate continuing threat of violence it is in the best interests of the staff member or carer to take time to discuss and consider possible options. This can include a referral to the Youth Offending Service which will give consideration to the necessary intervention. This however does not alter the individual's right to involve the police. Following such incidents it is important that staff and carers utilise standard de-briefing processes.

38. Staff and/or a child's social worker should also ensure risk assessments; safe care and child in care placement plans are updated or completed in relation to the risk of violence or injury to themselves or colleagues. A professionals' meeting could be a useful method by which to assess these risks and look at ways this risk could be reduced.

Criminal damage within the home or placement, or to staff or carers' cars or property

39. The majority of criminal incidents involving police relate to damage to the children's home or placement. It is important to see these in the context of the needs of the child and consider whether involving the police is an effective and proportionate response.

Theft within the home or placement

40. Most offences of theft within the home or placement are likely to be of low value, but the possible start of criminal behaviour, although it should be emphasised that value is a subjective issue relative to the victim and there is the important factor of emotional value to the victim to take in to account.

Disorder in or around the home or placement

41. The area of disorder is subjective and requires judgement by staff to avoid unnecessary police involvement for minor infringements of discipline. The main factors that should be considered are:

- Nature and seriousness of the disorder
- Risk or threat of violence
- The wishes of and impact on the immediate community
- The availability of alternative courses of action

Trespass within and around Home or Placement

42. All incidents of trespass by persons unknown should be reported to the police. Visits/trespass by outside associates of residents can be dealt with effectively under the Harassment Act, which will protect young people and staff/carers.

Hate incidents and crime

43. The following sections set out the definition of hate incidents and crime to help inform the decision making process in determining the categories of response for children's homes staff and carers.

44. The following guidelines should be adhered to:

- All possible steps should be taken by the police at local level, in consultation with other agencies, to encourage the reporting of hate incidents and crimes.
- It should be made clear that all behaviour policies held within children's homes should cover the areas indicated as hate crime and it should be made clear how staff, carers and residents should respond to it. Homes and placements should themselves handle low level daily occurrences and their management of this aspect of discipline should be subject to inspection.
- A multi-agency approach to such incidents can ensure that help is provided to victims of these incidents, providing them with a range of options for reporting and ensuring that the young person is sufficiently supported.

45. In the recording of hate crime the minimum data content required should be as follows:

- Reported to: (the person receiving the report such as Registered Manager, unit staff, police officer)
- Location reported at: (e.g. Home, Police Station)
- Referred by: (the agency or other person referring the victim to the police if the incident is being referred)
- Time and date of report and nature of incident

Definitions

46. A hate incident is defined as any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person as being motivated by prejudice or hate. Hate incidents are defined as follows:

- Racist Incident - any incident which is perceived to be racist by the victim or any other person.
- Homophobic Incident - any incident which is perceived to be homophobic by the victim or any other person.
- Trans phobic Incident - any incident which is perceived to be trans phobic by the victim or any other person.
- Faith Related Incident - any incident which is perceived to be based upon prejudice towards or hatred of the faith of the victim or so perceived by the victim or any other person.

- Sectarian Incident - any incident which is perceived to be sectarian by the victim or any other person.
- Disability Incident (or sometimes referred to as a disability incident) - any incident which is perceived to be based upon prejudice towards or hatred of the victim because of their disability or so perceived by the victim or any other person.

47. A hate crime is defined as a criminal offence committed against a person or property which is motivated by an offender's prejudice or hatred of someone because of their race, religion, gender or gender identity, sexual orientation or disability. It is vitally important to note that all hate crimes are hate incidents. However some hate incidents may not constitute a criminal offence and therefore will not be recorded as a hate crime. For example, making inappropriate reference to the colour of someone's skin in a non-confrontational social setting may well be perceived as a racist incident. However there may be insufficient evidence for it to be considered a crime. It is important to understand this distinction.

48. The police are responsible for data collection in relation to hate incidents and hate crimes. It is important that this data is comprehensive and sufficiently robust to establish trends and inform an intelligence-driven response.

49. Additionally, Kent Police records victims' vulnerabilities in its crime recording system to allow the monitoring of incidents which fall outside the technical categories for hate crime or incident recording but which have been motivated by factors of vulnerability e.g. a person who is targeted because they are elderly.

Substance misuse

Reducing the risk of drug taking

50. The misuse of controlled drugs within a children's home or placement is a serious issue and it is essential that the response is prompt and effective. In response to incidents staff and carers will be guided by the government's Tackling Drugs Strategy, which has four main aims:

- To help young people to resist drugs use in order to achieve their full potential in society
- To reduce the acceptability and availability of alcohol and other drugs to young people
- To minimise the health risks and other damage associated with substance use by young people
- To increase the safety of communities from drug related crime

51. Residential staff or carers will need to balance these principles with their duty of care for the young people in the home or placement and their role in managing young people's behaviour as part of their care responsibilities as well as their responsibilities to the wider community.

The discovery of drugs within the placement setting

52. Children's home staff and Foster Carers must read this protocol in conjunction with the National Minimum Standards, with particular attention being paid to the section on drugs. Any incidents where drugs are found on a young person or under the control of a young person at a care home or foster placement must be reported to the police immediately. Kent Police Control Room will ensure police attendance will be as soon as possible after the initial report is made. Attending officers will then determine the most appropriate course of action dependent upon the level of drugs found under control of the young person and the quantity. Officers will record the incident as appropriate and will be updated on the crime report with the relevant outcome framework reason. If the number of instances of drug removal continues then the police action taken will escalate accordingly. When a foster carer or care home member of staff removes drugs from a young person it will be reported to the youth and social worker aligned with the child to determine the appropriate course of action to try and stop the reoccurrence of any further drug abuse. Contact should be made to the recognised drug treatment and support provider to enable them to work with the young person to give them every opportunity to desist from their drug abuse habits if a habit is present

53. If safe to do so drugs should be removed from the child in care. A record of the removal must be kept by staff or carers, which includes:

- The name of the person removing the material
- Description of the material
- The circumstances of the removal
- The time and date of the removal
- The time and date the material was placed in a secure storage
- The signature of the person putting the article into storage, countersigned by a second member of staff (this activity is for care homes only)
- The time and date of notification to the police and the message number notified by the police control room
- The time and date the material was removed by the police

This set of activities under paragraph 53 of the Children in Care protocol is to provide legal justification for having drugs in the possession / control of a children's home or a foster carer under the Misuse of Drugs Act.

54. To ensure that controlled substances are not stored in the children's home or placement any longer than necessary it is important that every effort is made to ensure that the police attend at the earliest possible opportunity. Staff and carers must first contact the Kent Police Control Room to arrange for officers to attend the home placement.

55. The officer attending is then responsible for recovering the suspected controlled substances into police possession and, if appropriate, conducting any subsequent investigation in line with existing police policy.

56. Alcohol and canisters can be disposed of by staff or carers. It is important that the disposal is witnessed and a record kept which includes:

- The name of the person removing the material
- A description of the material
- The circumstances of the removal
- The time and date of the removal
- The time, date and means of disposal

CHILDREN MISSING OR ABSENT FROM CARE

57. The potential risk to any children whose whereabouts are unknown requires an immediate assessment. Only when the risk assessment identifies the child as 'missing' or 'absent' should notification be made to the Police.

58. A joint Protocol has been agreed between Kent Police, Kent County Council and Medway Unitary Authority and should be referred to in these circumstances.

INFORMATION SHARING

59. The setting out of arrangements for information sharing and disclosure in line with the provisions of Data Protection Act and Crime and Disorder Act Section 115 (see guidance at Appendix E). Also refer to the Safeguarding Boards Multi-Agency Information Sharing Guidance.

60. All sharing of information or data will also be completed in accordance with the Kent and Medway Information sharing Agreement, which all parties need to ensure they are signed up to.

RECORDING OF INCIDENTS

By residential staff

61. It is necessary for incidents within children's homes to be accurately recorded so as to provide informed histories on the CYPs looked after, assisting with assessments and liaison meetings.

62. All incidents must be recorded in the personal file of each young person and entered in the home's day book/ incident log. Risk assessments should be reviewed. This provision also applies to incidents discussed through regular liaison meetings with the Police.

By foster carers

63. It is necessary for incidents within foster care placements to be accurately recorded so as to provide informed histories on the CYPs looked after, assisting with assessments and liaison meetings.

64. All incidents must be recorded for each young person and reported to the family placement social worker and the child's social worker. Risk assessments should be reviewed.

Whether to record (police)

65. In April 2002, the police service in England (and Wales) adopted the National Crime Recording Standard (NCRS) and Home Office Counting Rules. It governs the way in which the police record crime. Under this standard, the police will record an incident as a crime (notifiable offence) against an identified victim if, on the balance of probability:

[a.] the circumstances as reported amount to a crime defined by law (the police will determine this, based on their knowledge of the law and counting rules)

AND

[b.] there is no credible evidence to the contrary In most cases, the belief by the victim (or person reasonably assumed to be acting on behalf of the victim) that a crime has occurred is sufficient to justify recording it although this will not be the case in all circumstances.

In the normal course of events the parent / guardian / representative can reasonably be assumed to be acting on behalf of the victim. The criterion is not age specific and each incident has to be judged on its own merits.

3rd Party Report

66. Where there are grounds to suspect that a victim-related crime may have taken place but no victim (or person reasonably assumed to be acting on behalf of the victim) can immediately be found or identified, the matter should be recorded as a third party report until such time as the victim is located or comes forward.

67. All incidents reported to the police, whether by victims, witnesses or third parties and whether crime related or not, will result in the registration of an incident report by the police.

68. Where an incident is reported directly to the police via the Kent Police Control Room, front desk or attending officer then the Force policy for recording of incidents and crimes should be adhered to.

When to Record (Police)

69. A crime should be recorded as soon as the decision to do so has been made (or as soon as possible afterwards). To ensure compliance with the counting rules, offences which come to the notice of the police through involvement in children's homes, must be recorded, unless the criterion applies as stated above.

70. Each children's home has a responsibility of care towards the resident young persons with their welfare interests being paramount. Department for Education National Minimum Standards for Children's Homes specify that each home must have a clear written policy on managing behaviour that all staff understand and apply at all times which includes supporting positive behaviour, de-escalation of conflicts, discipline, control and restraint. Consequences of unacceptable behaviour should be made clear to staff and children, and must be appropriate to the age, understanding and individual needs of the child. Therefore the requirement to record offences should be considered

alongside the desire to avoid unnecessary criminalisation of young people who are looked after by the local authority.

Recording of incidents requiring an immediate police response

71. Given the immediate response of incidents of this nature, offences which come to the notice of attending officers should be recorded unless advised otherwise by the Investigation Management Unit (IMU).

Recording of incidents not requiring an immediate police response

72. Incidents not requiring an immediate police response should be reported to the Registered Manager which will be referred to the Police who will determine whether it needs to be recorded as a crime.

73. Incidents which are considered suitable for internal resolution by children's home staff or other agencies do not need to be reported to the police; however the staff should record full details and decisions within the children's home register.

PROSECUTION OF INCIDENTS BY CROWN PROSECUTION SERVICE

Offending behaviour in children's homes.

74. The decision to prosecute CIC for low level offences committed within a children's home is a major decision and should be taken by a youth specialist from within Integrated Youth Services or Youth Offending Services who has attended the CPS Youth Specialist Course and is at least a Senior Crown Prosecutor. The guidance should be considered in conjunction with the code for Crown Prosecutors, CPS Policy Statements and legal guidance.

75. 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. The CPS should bear this in mind when dealing with such reports. It is important that everyone is able to feel safe in the place where they live, whether that is in a family or children's home, and to have confidence in the Criminal Justice System to intervene and protect them where necessary.

76. The vast majority of Children in Care are accommodated with foster carers within normal family environments; therefore it follows that the greater number of domestic incidents concerning Children in Care will occur within the foster home setting. Police and prosecutors are asked to consider if pursuing a formal prosecution is in the public interest and ultimately within the best interests of the child. Use of restorative practices is to be encouraged as the first response to any incident within a foster home. Practitioners of all agencies are asked to take into account, that in most cases, foster carers have to claim off of their own household insurances for any damage or loss. This will normally require foster carers to obtain a crime number from the Police. Such exercises should not normally, therefore, result in prosecutions of Children in Care. Due

regard needs to be given in respect of looked After Children who may be in alternative accommodation situations. These could include, supported lodgings, independent lodgings and also private tenancy arrangements. The provisions within this protocol should apply equally in respect of these and other settings

77. Where a criminal justice disposal is considered this should be referred to XXX (Police) to determine the appropriate disposal. This includes disposals such as community resolutions, youth cautions etc.

78. Informal disposals such as a restorative justice, Acceptable Behaviour Agreements (ABAs) 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

79. Each home must have a written Behaviour Management Policy which sets out the measures of control, restraint and discipline which may be used in the home and the means whereby 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 the particular incident should accompany any request for advice on charging.

The decision to prosecute

80. Youth Specialists should consider all the circumstances surrounding the offence and the CYP before reaching a decision, and should apply the Code for Crown Prosecutors and all relevant CPS Youth Policies.

81. Factors that should be considered include:

- Disciplinary policy of the home
- An explanation from the home regarding their decision to involve the police
- Information from the home about the recent behaviour of the child or young person including similar behaviour, any incidents in the child or young person's life which could have affected their behaviour, any history between the child/young person and the victim, any apology or reparation, history of the incident and any action taken under the disciplinary policy of the home.
- Views of the victim, including their willingness to attend court to give evidence and/or participate in a RJ or other diversionary programme.
- Views of the key worker, social worker, counsellor, YOS worker and CAMHS worker on the effect of a criminal justice intervention on the CYP, particularly where the child or young person suffers from an illness or disorder.
- Any explanation of information about the offence from the CYP.
- Provided the CYP 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 these.

Aggravating and mitigating factors

82. Aggravating and mitigating features should be considered when deciding on the appropriate outcome.

Aggravating factors include:

- The offence is violent or induces a genuine fear of violence in the victim
- The offence is sexual
- The offence is motivated by hostility based on gender, sexuality, disability, race/ethnicity or religion 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 factors 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 victim
- The behaviour is a symptom of a disorder or illness that cannot be controlled by medication or diet
- Isolated incident or out of character
- The child or young person is under extreme stress or appears to have been provoked and has over-reacted

MONITORING & SIGNATORIES

83. To evaluate compliance with this Protocol, regular meetings should be held between the Police, Children's Homes and Foster Care Providers, Youth Offending Services, and CPS. The group will also ensure that this document is reviewed on an annual basis. Group members to be listed.

Appendix A This will need to be updated pending decisions on points of contact

CONTACTS

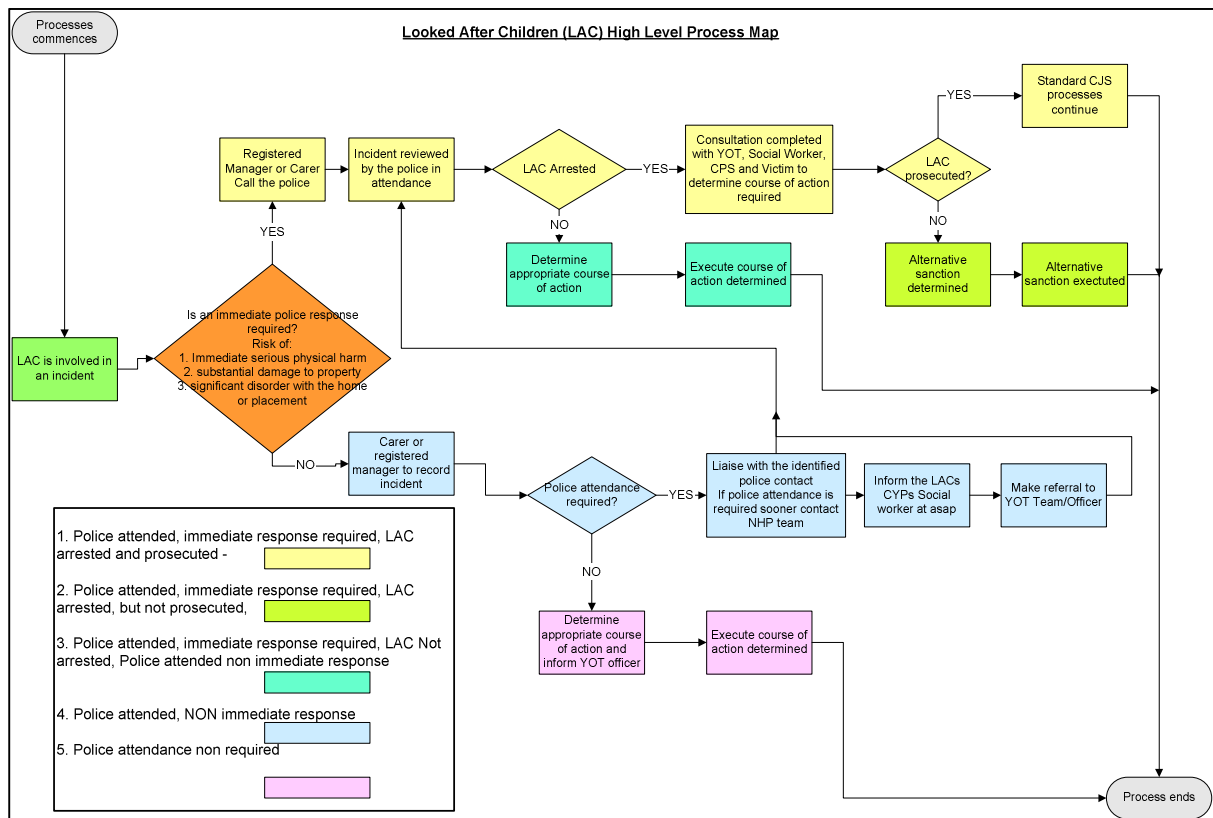
84. Each area in Kent has a dedicated Community Safety Units which includes police officers and police community support officers (PCSOs).

85. There are a number of ways that you can find the contact details of your local policing team. You can:

- Call the Kent Police non-emergency number **101**
- Visit your local Police station
- Visit the Kent Police website at www.kent.police.uk. Click on Your Neighbourhood, Your District, select your district and then your ward. On the website you will also find how to sign up to Community Messaging so that you receive emails about policing in your area.

Appendix B- CHILDREN’S HOMES DECISION TO INVOLVE POLICE

This policy must be followed when any member of staff is considering contacting the Police.



Appendix C CHECKLIST TO BE USED WHEN DECIDING WHETHER TO INVOLVE THE POLICE

Name of young person(s)/staff involved in incident _____

Offender _____ Victim _____

Date Incident Occurred _____ Location of Incident _____

Nature of Incident (please circle)

<i>Violence by a child or young person on another</i>	Once	Ongoing
<i>Violence to staff or foster carers by a child or young person</i>	Once	Ongoing
<i>Criminal damage within the home or placement</i>	Once	Ongoing
<i>Criminal damage to staff or carers' cars or property</i>	Once	Ongoing
<i>Theft within the home or placement</i>	Once	Ongoing
<i>Hate crime (race, religion, homophobia, transgender, disability)</i>	Once	Ongoing
<i>Disorder in or around the home or placement</i>	Once	Ongoing
<i>Trespass within and around home or placement</i>	Once	Ongoing
<i>Substance misuse</i>	Once	Ongoing

Other (please describe) _____

Who has been affected? (please list): _____

Any other comments: _____

Before I contact the police, I confirm that I have already completed the following:

Internal enquiry	Yes	No
Internal discussion	Yes	No
Internal Restorative Conference	Yes	No
Referral to YOT	Yes	No
Referral to social worker	Yes	No

Sanction Type: _____

Referred to police by _____ (print name)

Appendix E - GUIDANCE ON INFORMATION SHARING

The following guidance on information sharing between agencies under section 115 of the Crime and Disorder Act 1998 was issued in November 1998 in a joint statement by the Home Office and Data Protection Registrar:

Before public or statutory bodies can disclose information, they must first establish whether they have power to do so and/or whether they have a responsibility to do so. Once the question of power is resolved, they must carry out the disclosure in a lawful manner.

THE POWER TO DISCLOSE

The police have an important and general power at common law to disclose information for the prevention and detection of crime. Indeed, both the public and the government expect them to use their powers and their knowledge to prevent crime and to reduce crime and disorder. There are no restrictions on the disclosure of information, which does not identify individuals.

THE CRIME AND DISORDER ACT 1998

The Act introduces a number of measures to control crime and disorder, all of which depend on close co-operation, including the proper exchange of information:

- Section 17: duty to prevent crime and disorder;
- Sections 6&7: formulating and implementing strategy;
- Section 39: youth offending teams;
- Section 1: anti-social behaviour orders;
- Section 2: sex offender orders;
- Section 15; local child curfew schemes;
- Section 16: contravention of child curfew notices.

Public bodies collect information, which will be central to the Act's partnership approach; but they may not previously have had power to disclose this information to the police and others. Section 115 provides that any person can lawfully disclose information 'for the purposes of the Act' to the police, local authorities, probation service or health authority (or persons acting on their behalf), even if they do not otherwise have this power.

Section 115 ensures all agencies have a power to disclose: it does not impose a requirement on them to exchange information, and so control over disclosure remains with the agency which holds the data. Information exchange, whether carried out under the power in section 115 or under any other common law or statutory power, is therefore controlled by the normal data protection regime and common law. The public rightly expects that personal information known to public bodies will be properly protected. However, the public also expects the proper sharing of information, as this can be an important weapon against crime. Agencies should, therefore, seek to share information where this would be in the public interest.

LAWFUL EXERCISE OF THE POWER TO DISCLOSE

Any disclosure of personal data must have regard to both common and statute law, for example defamation, the common law duty of confidence, and the data protection principles -unless and to the extent that any Data Protection Act exemptions apply. The principles require that such information is obtained and processed fairly and lawfully; is only disclosed in appropriate circumstances; is accurate, relevant, and not held longer than necessary; and is kept securely.

The best way of ensuring that disclosure is properly handled is to operate within information sharing Protocols carefully formulated by the agencies involved. Section 115 of the Crime

and Disorder Act 1998 can be used to reinforce the many and existing and successful Protocols for the sharing of information for crime and disorder purposes between, for example, the Police and probation service. The Home Office and the Office of the Data Protection Registrar have issued guidance on the preparation and use of Protocols.

Further guidance may be obtained from the Kent & Medway Information Sharing Agreement.

Appendix F - EXPLANATION OF DISPOSAL OPTIONS

Community Resolution

Community Resolution is not a criminal conviction but it may be disclosed under the Disclosure and Barring Scheme (DBS) enhanced disclosure process subject to the nature of employment being sought.

Youth Cautions and Conditional Cautions

There are various options for dealing with young people who have committed crime.

All Youth out of court disposals (OCD'S, aka non court disposals NCD'S) are age specific; they can only be issued to 10 – 17 year olds.

If a person commits an offence aged between 10 & 17 but reaches 18 or over at the point of disposal, they cannot receive a youth outcome. However a 'Cannabis Warning', 'Simple Adult Caution' or a 'Conditional Caution' can be considered.

Youth Caution

The Youth Caution is a formal out-of-court disposal which aims to reduce the number of young people being taken to court for a low-level offence. The youth caution is available for use by the Police if the gravity score of the offence is 2/3 or under, the offender admits guilt and consents to the caution. There must also be sufficient evidence to charge the offence and where prosecution for that offence would otherwise be in the public interest. Once a youth caution is administered the criminal case is concluded for that offence. The objective of using a Youth Caution is to reduce re-offending in the future.

A Youth Caution can be administered to those aged between 10 and 17 at the time of the offence. If the offender turns 18 before the Youth Caution is issued then an adult simple caution will be used instead.

The police can make the decision without referral to the CPS unless the offence has a gravity score of '4' or is indictable only in which case CPS must be consulted.

Youth Cautions are intended for low level offending but can also be used where it is not in the public interest to prosecute.

Youth Cautions are available for most offences, but offences with a gravity score of '4' (ACPO Gravity Matrix) or is 'indictable only' authorisation **MUST** be sought from CPS before it can be offered. CPS authorisation must be recorded on the MG3.

Key considerations are:

- The offender must admit the offence
- The gravity score of the offence (taking into consideration both the offence specific and general aggravating & mitigating factors(ACPO Gravity Matrix))
- Sufficient evidence for a realistic prospect of conviction
- The circumstances of the offence, the age and understanding of the offender
- That the disposal is proportionate to the crime committed and effective in reducing the risk of further offending
- The young person's previous offending history
- Views expressed by the victim – this does not mean that they can dictate the disposal method

Youth cautions allow for YOT to assess a young person, to consider offering voluntary interventions/conditions and to deal with or refer to other agencies where risk factors are identified.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) permits the first formal out of court disposal to be delivered without prior referral to YOT. However Kent Police Policy is that all cases will be referred to YOT prior to any formal out of court disposal being offered. LASPO requires YOT to assess all young people that have received a prior formal outcome before being offered an out of court disposal.

Kent Police policy is that all proposed youth cautions will be delivered at a local Restorative Justice Clinic.

A Youth Caution is an out of court disposal that does not require the consent of the young person to administer, however; it would always be best practice to ensure the youth caution was accepted as they have to sign the form indicating that they accept the terms and conditions.

A youth caution can have **voluntary** conditions/interventions attached to it, but there can be no sanction for failure to complete those conditions. These are likely to be identified, arranged and managed by the local Youth Offending Team.

The Legal Aid, Sentencing & Punishment of Offenders Act 2012 (LASPO) allows the police to deliver the first formal out of court sanction without prior referral to YOT, however; Kent Police policy is that all formal out of court disposals will be offered after referral to YOT. This allows young people to be 'triaged' and if necessary assessed by YOT prior to the delivery of the sanction.

The YOT assessment process helps to guide police in determining the appropriate sanction, identify the needs of the young person and identify conditions/interventions to prevent re-offending.

If a young person resides outside of Kent their case will be transferred to their home YOT to assess and process on our behalf. This only relates to young people that reside in England or Wales.

The OIC should submit an e-YOT referral as normal. Upon receipt of the e-YOT referral Kent or Medway YOT will transfer the case. The local YOT PC will contact the OIC and will facilitate the transfer of the relevant documents and information.

Those that reside outside of England & Wales deal with them as you would a Foreign National.

An individual can have more than one caution if in the decision making process it is felt that this is the most appropriate course of action, taking into account the new offence, history of offending, the time lapse since the last caution and the assessment of the YOT. A second or subsequent Youth Caution may be appropriate. The rationale for all decision making must be recorded to ensure there is not an inappropriate over use of the out of court options that could undermine confidence in the criminal justice system.

In the decision making process a number of offences can be grouped together and the most serious one considered for an out of court disposal. This may be useful if a number of offences come to light at the same time, such as several shop lifting offences.

A Youth Caution is not a court conviction or sentence and therefore is not a criminal conviction. It is an admission of guilt, which forms part of an offender's criminal record. It is recorded on the Police National Computer, and may influence how the offender is dealt with in future proceedings (it is citable in court). It can be included on a Standard or Enhanced Disclosure issued by the Disclosure and Barring Service (DBS), previously known as the Criminal Records Bureau, (CRB); and thus can be made known to certain prospective employers.

Disclosure is dependent on the age of the offender and the number of years that have passed since the offence was committed.

Normally those under 18 a youth caution will not be disclosed after two years; however there is a list of offences on the DBS disclosure list that will always be disclosed.

Any offence can be disclosed if it is deemed appropriate by police even if it is not on the DBE disclosure list.

If the offence admitted is a sexual offence, this may mean that the person will have their name added to the Violent and Sex Offender Register and the person will have to agree to certain conditions around registration.

Youth Conditional Caution (YCC)

A YCC is a youth caution but with formal conditions attached.

The Youth Conditional Caution is a Youth Caution with formal conditions. A YCC is a statutory out-of-court disposal which aims to reduce the number of young people being taken to court for a low-level offence. The YCC is available for use by the Police and the Crown Prosecution Service (CPS) if the gravity score of the offence is 2/3, the offender admits guilt and consents to the conditional caution. There must also be sufficient evidence to charge the offence and where prosecution for that offence would otherwise be in the public interest. The decision to administer a YCC has the effect of suspending any criminal proceedings while the young person is given an opportunity to comply with the agreed conditions. The YCC will have at least one mandatory condition attached, there is no upper limit.

A YCC can be offered to those aged between 10 and 17 at the time of the offence. If the offender turns 18 before the YCC is issued then an adult conditional caution will be used instead.

A YCC is an offer to the young person, they can accept or refuse the conditional caution and if the latter option is selected the offender will be charged or summonsed for the offence(s).

The conditions attached to a YCC are based on suitability for the young person and what is locally available as a resource, support or programme. Conditions must have one or more of the following objectives:

Reparation	Rehabilitation	Punitive
Conditions that aim to repair the damage done either directly or indirectly by the young person	Conditions that help to change the behavior of the young person, reduce the likelihood of them reoffending or help to reintegrate the offender into society	Conditions that penalise the offender but only where it's determined that reparative or rehabilitative conditions will not deter future offending

Conditions may also include:

Restrictions – these are to assist the young person to achieve reparative or rehabilitative conditions, for example; not to associate with another who they have a history of offending with, not to enter a certain location, etc.

NOTE: Neither Kent or Medway have established facilities for the collection of money, therefore it's highly unlikely that they will agree to any condition including compensation or a fine, etc.

Where the conditions attached to the YCC are complied with, the case will be discharged and no further prosecution and/or proceedings for the offence(s) will be commenced. However, where, on assessment, there is no reasonable excuse for non-compliance, the YCC offer can be withdrawn and criminal proceedings commenced for the original offence(s).

At least one condition should be attached, but there is no limit to the actual number of conditions. However, remember the conditions should be proportionate to the offence and the young person has to agree to those conditions. Conditions should not last longer than

three months. This is to ensure that they are proportionate but also; if the YCC fails there is still time to instigate criminal proceedings if necessary.

When considering a YCC as a disposal the young person must be referred to the local YOT for assessment and the conditions attached must be agreed between the Police and YOT before seeking the agreement of the YP. YOTs will be responsible to delivering all reparative, rehabilitative and punishment based conditions. They are also responsible for oversight of compliance and reporting any failures to the police. The police are likely to be responsible for monitoring restrictive conditions.

Under no circumstances can a YCC be administered without prior referral and agreement of YOT.

If in the decision making process it is felt there has been a passage of time since the original YCC or that it is a different offence or that the young person responded well to the conditions last time a second YCC may be appropriate. The rationale for that decision will have to be recorded to ensure there is not an inappropriate over use of the out of court options that could undermine confidence in the criminal justice system.

The YOTs will be responsible for the following:

- assessing offenders and their cases
- recommending / agreeing conditions with police
- supervising young people on YCCs, including delivering conditions
- monitoring compliance
- reporting non-compliance to the police to consider instigating proceedings for original offence
- maintaining accurate recording

In the decision making process a number of offences can be grouped together and the most serious one considered for an out of court disposal. This may be useful if a number of offences come to light at the same time, such as several shop lifting offences.

A YCC is not a court sentence and therefore is not a criminal conviction. It is an admission of guilt, which forms part of an offender's criminal record. It is recorded on the Police National Computer together with the conditions attached to it, and may influence how the offender is dealt with in future proceedings (it is citable in court). It can be included on a Standard or Enhanced Disclosure issued by the Disclosure and Barring Service (DBS), previously known as the Criminal Records Bureau, (CRB); and thus can be made known to certain prospective employers.

Disclosure is dependent on the age of the offender and the number of years that have passed since the offence was committed.

Normally those under 18 a YCC will not be disclosed after two years; however there is a list of offences on the DBS disclosure list that will always be disclosed. Any offence can be disclosed if it is deemed appropriate by police even if it is not on the DBE disclosure list.

A YCC should be considered if it's in the interest for the young person to comply with certain conditions rather than be prosecuted for the offence (a YCC can only be considered as an alternative to a charge. Unreasonable failure to comply with the condition(s) will result in the case progressing to Court therefore evidential integrity is essential).

All offences are eligible for a Youth Conditional Caution disposal, but if an offence has a gravity score of '4' (ACPO Gravity Matrix) or is 'indictable only' authorisation MUST be sought from CPS before it can be offered. CPS authorisation must be recorded on the MG3.

Key considerations are:

- The offender must admit the offence
- Sufficient evidence for a realistic prospect of conviction
- In the public interest for the young person to comply with certain conditions rather than being prosecuted for the offence

Conditions should be reparative, rehabilitative &/or restrictive. If none of these options are suitable then punitive condition(s) can be considered.

LASPO requires YOT to assess any young person for suitability of a YCC. There must be agreement between police and YOTs as to appropriate conditions to be imposed prior to the YCC being offered.

The OIC can make suggestions (via the e-YOT referral) as to the conditions but the final decision will be made following consultation between the YOT PC and the YOT case worker who will have discussed the conditions with the young person. The young person must agree to complete all conditions. Failure to agree to complete appropriately identified conditions will result in the young person being charged / summonsed for the offence(s). Unreasonable failure to complete/comply with agreed conditions can result in prosecution for the original offence. The YOT PC will add the YCC to Genesis following consultation with YOT.

The YOT are responsible for monitoring conditions and advising on non-compliance. All unreasonable non-compliance will be discussed with the YOT PS.

Kent Police policy is that all youth conditional cautions will be delivered at a local Restorative Justice Clinic.

Appendix G - COMMUNITY RESOLUTION -

2. What this Procedure is About

2.1 This Standard Operating Procedure (SOP) gives operational direction in relation to the circumstances in which community resolutions will be used, how they will be delivered and how to record them.

2.2. Community resolutions provide effective and transparent means for dealing with lower level crime and anti-social incidents, offering an alternative to formal criminal justice proceedings but not to divert if it is appropriate to prosecute. Community resolutions incorporating the use of Community Remedy support the professional judgement of police officers to assess an offence, the wishes of the victim, and the offender's history in order to reach an outcome which best meets the interests of the victim and of the public. The Community Remedy has been introduced by the Anti-social Behaviour, Crime and Policing Act 2014. The act places a duty on The Police and Crime Commissioner to consult with members of the public and community representatives on what punitive, reparative or rehabilitative actions they would consider appropriate to be on the Community Remedy document. The Community Remedy document is a list of actions which the victim may choose from, for the offender to undertake as a consequence of their behaviour or offending.

2.3. Restorative practice is a process that brings known benefits including victim satisfaction,

reduction in re-offending and community cohesion. Every effort should be made to allow the community resolution to be delivered in a face-to-face restorative manner. Officers will consider who has been affected by the incident or crime in addition to the named victim.

Compliance with this SOP and any governing policy is mandatory.

3. Detail the Procedure

3.1. Any resolution may be delivered there and then or scheduled for a later time. The decision as to the most appropriate method of delivery will be for the investigating officer and made with consideration to the facts of the incident and the needs.

3.2. Offence

3.2.1. Community resolutions will not be used for:

- Sexual offences;
- Domestic abuse (as per ACPO definition, see [policy N07](#));
- Offenders that are subject to an existing court order, on bail for other offences or are wanted on warrant;
- Diverting suitable cases from court.

3.3. Evidential standard

3.3.1. The investigation must meet with current investigative standards and the offence is one that would be suitable for a caution but not prosecution.

3.3.2. Police Community Support Officers (PCSOs) seeking to deal with a crime using a community resolution may do so where they have the power for the offence designated by the Chief Constable (see [Policy O38](#) Police Community Support Officers). Where such power has not been designated the crime must have been investigated by a warranted police officer. This investigation may have been conducted by an officer of any rank and may include independent patrol Special Constable. Once the investigation has been completed PCSO's that are trained to Restorative Justice Level 1 are authorised to deliver the community resolution.

3.4. Admission

3.4.1. The offender's admission must be recorded and no lawful defences raised before the administration of a community resolution can be considered. Every attempt should be made to ensure this is compliant with the Police and Criminal Evidence Act (PACE).

3.4.2. Where it is unlikely that the case will come to a formal sanction, it may be suitable for the obtaining of the admission outside the auspices of PACE, e.g. a juvenile shoplifter with no previous sanctions against them who is fully admitting the offence without an appropriate adult present, who is to be taken home following the resolution.

3.5. Offender

3.5.1. The officer must obtain the consent of the offender to engage in the community resolution process.

3.5.2. This approach may be used for an offender of any age, except those below the age of criminal responsibility. In the case of those under the age of 18 years engaging in a community resolution, officers will take and document all reasonable steps to contact parents/guardians prior to the resolution being delivered.

3.5.3. In cases where this is not appropriate, a parent/guardian will be informed of the resolution at the earliest opportunity and, in any case, within 24 hours and this contact will be documented by the officer or staff member making contact. In cases where the

appropriate adult is also the victim every effort must be made to include another suitable person to fulfil the function of appropriate adult. Where this is not possible the community resolution may continue but officers should consider the welfare and interests of the young person involved.

3.6. Offending history

3.6.1. Where the offender has received a previous sanction and a community resolution is considered appropriate, authorisation must be gained from a Sergeant.

3.7. Implications

3.7.1. The officer should ensure the offender understands that the community resolution may be disclosed as part of an enhanced Disclosure and Barring Service (DBS) check. Any disclosure at enhanced level would depend on the nature and circumstances of the individual check. Ordinarily a low level offence such as a minor theft (e.g. shoplifting) would not be disclosed on an enhanced DBS check. Officers should not however provide any assurances of this.

3.8. Authorisation

3.8.1. Authorisation to deliver a community resolution is not normally required. The following criteria will need to be present for the community resolution to be administered without authorisation:

- The administering officer is trained to level 1 restorative practice;
- The offender has not received any previous sanctions;
- The offence is one that ordinarily would be suitable for a caution;
- There is an identifiable victim who considers this as an appropriate method of resolution;
- The circumstances and severity of the offence are not such that it should result in a court prosecution;
- The offender accepts responsibility for their action;
- The offender understands the effect their behaviour has had on others;
- The victim(s) has an opportunity to express their views to the offender;
- The victim(s) will have their questions about the offence answered.

3.8.2. Prior written authorisation will be needed if any one or more of the criteria as above are not able to be met. This authority will be sought from a Sergeant. This authorisation will be recorded, along with the rationale for the decision, on the crime report or CAD log by the Sergeant using their login to provide an audit trail for the decision.

3.8.3. In cases where the offence is against the state, e.g. Public Order, officers should consider who may have been affected by the offence, i.e. a parent or local resident to fulfil the role of the harmed person in a restorative process. These cases will always require a Sergeants authority. Where the direct victim is not in agreement with the resolution, the officer will record this and explain the reasons given to the Sergeant.

3.9. Procedure

3.9.1. The force adopts a restorative approach to the delivery of community resolutions; this approach should be utilised wherever possible in order to achieve the best possible outcome for the victim.

3.9.2. The officer must confirm that the offence and offender are suitable for the community resolution. The officer will discuss the case with the victim and seek their consent.

3.9.3. When a community resolution is to be used, the officer must make reasonable efforts to obtain the views of the victim as to whether the offender should carry out any of the actions listed in the community remedy document (located on the form 1912 Community Resolution Incorporating Community Remedy). If the officer considers that the action chosen by the victim is appropriate, the offender should be asked to carry out that action (the officer should ask the offender if the action is within their capability to fulfil). The police officer will have the ultimate responsibility for ensuring that the action offered to the offender is appropriate and proportionate to the offence.

3.9.4. The officer must explain to the victim that any agreed outcomes are voluntary and that the police are not able to enforce non-compliance. Every effort should be made to allow the resolution to be delivered in a face-to-face restorative manner. However it is not necessary for the victim to meet the offender in order to choose the action in the community remedy document. The officer must also clearly explain to the offender that they will be named on the crime report.

3.9.5. When using the community remedy the officer should consider the most appropriate way to involve the victim. It is the responsibility of the officer to maintain contact with the victim, offender and other parties including witnesses and appropriate adults throughout the duration of the process. Contact will be made by the officer immediately after the delivery of the resolution and on conclusion of any outcomes agreed by the process. If the victim is not contactable or if it cannot be ascertained who the victim is then the officer will choose an appropriate action for the offender to undertake.

3.9.6. Community Remedy Actions:

- Financial Compensation (payment of cost of damage or replacement of property)
- Reparation (repair of damage to victim's property or work in the community)
- Parenting Contract (voluntary agreement signed by the offenders parent/carer/guardian outlining expected behaviour)
- Acceptable Behaviour Contract (written agreement specifying behaviour)
- Verbal Apology to the victim
- Written Apology to the victim
- Restorative Intervention (facilitated process between the victim and offender to discuss the harm caused)

3.10. Recording

3.10.1. Community resolutions will be recorded on Genesis by the IMU DS confirming the disposal. A restorative process will only be considered to have been used when the checklist on the 1912 form, submitted by the officer, confirms that all of the following criteria have been met:

- The offender accepted responsibility for their actions;
- The offender understood the effect the behaviour has had on others;
- The victim(s) had an opportunity to share their views with the offender;
- The victim(s) have had their questions about the offence answered.

3.10.2. Where a reported offence is fully investigated and resolved using a community resolution prior to the crime report being completed, the officer will complete a community resolution record (form 1912). This will be offered to all parties for signature. On completion this will be quality assured by the officer's line manager and signed

accordingly. The 1912 will then be scanned and emailed to IMU whereby a crime report will be raised and completed.

3.10.3. Where a community resolution is achieved with a crime report already in existence, a community resolution record (form 1912) will be completed as above. The form should then be scanned and attached to the crime report by the officer. Additionally, the crime enquiries will be fully updated and a crime submission completed and authorised by the line manager.

3.10.4. All community resolutions will be subject of a quality assurance check by the duty IMU Detective Sergeant. Failure to demonstrate compliance will result in rejection and return to the OIC for reparative action.

3.11. Outcomes

3.11.1. Outcomes should be focused on the offender making good the harm that has been caused in accordance with the wishes of the victim and others affected by the offending behaviour. When considering outcomes, the officer must consider the safety of those involved and their duty of care.

3.11.2. Often the only outcome that is required is a sincere apology. Where this is the case and it is forthcoming during the community resolution process, this will be acknowledged and recorded on the 1912 along with the recipient's response. Any action selected as a result of using the community remedy document should also be recorded on the 1912.

3.11.3. It is important that actions are monitored and those involved are kept informed even when the agreement has not been adhered to. The responsibility for this will remain with the OIC.

3.12. Non-compliance

3.12.1. When an offender fails to complete their agreed actions it will not be possible to then offer an alternative sanction such as a youth caution or caution – victims must be made aware of this before agreeing to this resolution.

3.12.2. The officer will consider the possibility of reconvening a restorative meeting and addressing the harm caused by non-compliance and allowing those involved to consider the consequences and the implications for the future.

4. Equality Impact Assessment

4.1. An Equality Impact Assessment has been carried out and shows the proposals in this policy would have no potential or actual differential impact on grounds of race, ethnicity, nationality, gender, transgender, disability, age, religion or belief or sexual orientation.

5. Risk Assessment

5.1. This SOP has been assessed as medium risk.

6. Consultation

- Investigation Management Unit
- Human Resources
- Finance
- Health and Safety
- Legal
- Freedom of Information
- IT Security

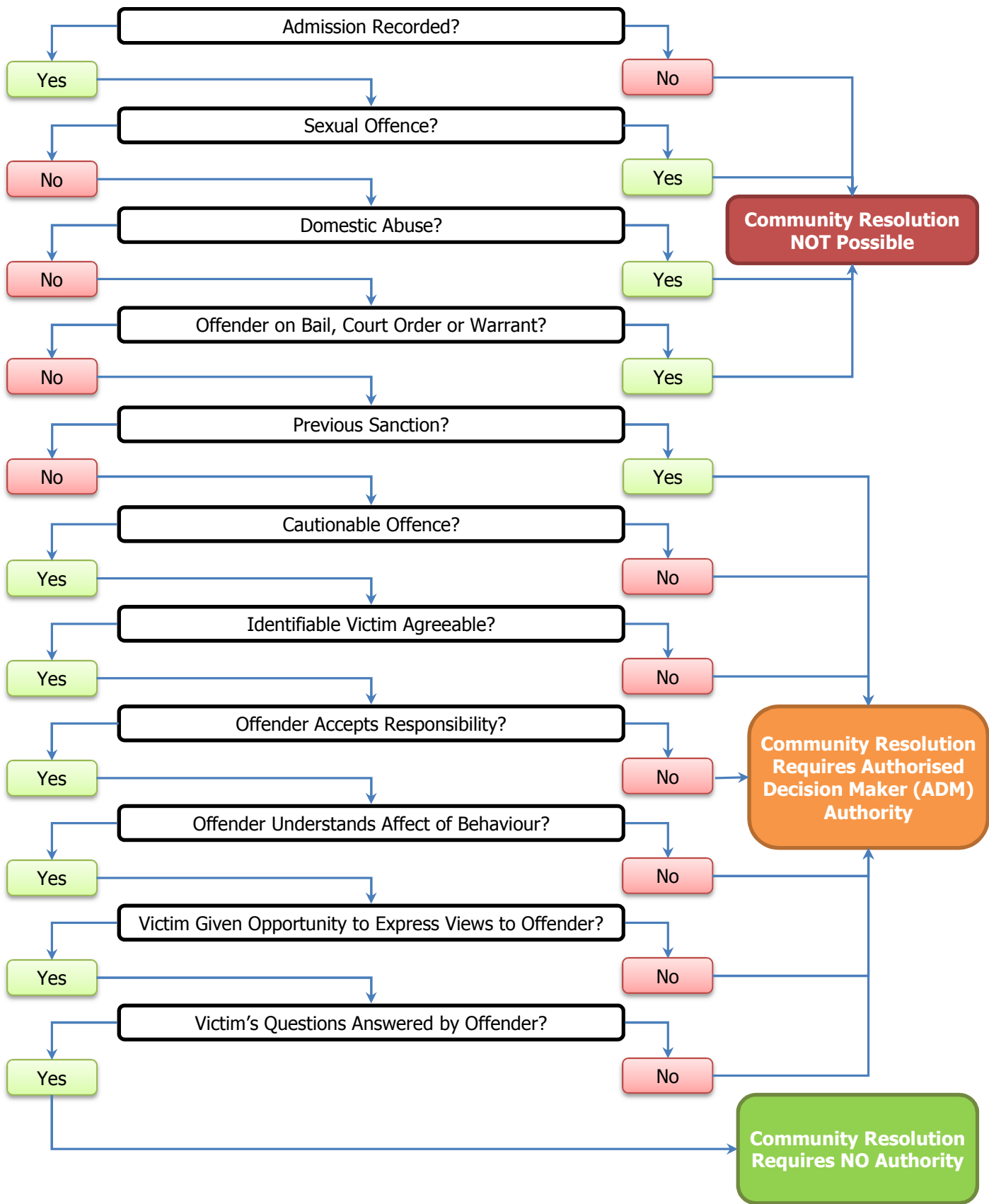
- Estates
- Equality and Diversity Co-ordinator

7. Monitoring and Review

7.1. Monitoring and review of SOP will be completed by Strategic Criminal Justice Department, Central Investigations. Regular reviews will be completed and as required in response to changes to legislation and/or national guidance.

7.2. This SOP will be reviewed every two years with the next review scheduled for May 2016.

Please see below the flow diagram relating to community resolutions.



Appendix H – Agency Roles and Responsibilities YOT/YOS involvement with Restorative Practices and Diversion from prosecution.

This appendix sets out the referral and assessment process for accessing YOT/YOS services if a young person has been identified as requiring additional support, or it is felt that a restorative intervention is required to prevent a decline in behaviour or avoid a direct police intervention. In most cases this will apply to young people who are not currently being worked with by either service. Where this is not the case and YOT/YOS are already involved in an open case, any additional support should be seen as a continuation or escalation of the existing intervention, with any additional requests for support made directly to the YOT/TOS case worker.

There may be differences of approach in terms of procedures and available services across Kent YOS and Medway YOT, however the expected outcomes and commitment of the services will be the same.

All requests for YOT/YOS assistance should be made by email in the first instance to the relevant Kent YOS Team Manager or Medway Operational Manager. The request should identify the following:

- Name, DOB and placement address of young person
- Foster carer or key worker contact details
- Outline of the concerns and desired outcomes
- Contact details of referring agency

YOT/YOS agree to undertake an assessment of the case and call a multi-agency meeting to discuss the case within 10 working days. If it is of a more urgent nature then there will be an expectation of carrying out an assessment within a shorter time period.

YOT/YOS involvement could include:

- Providing advice and guidance to foster workers or Key Workers
- A short period of intervention based upon assessed needs
- Referral to other agencies where beneficial
- Liaison with partner agencies
- Calling multi-agency meetings
- Providing or referring to restorative justice services to facilitate mediation, promote closure for all parties and ensure that victim expectations are met.

There is an expectation that referring agencies, foster carers/Key Workers and case LAC social workers will fully co-operate in respect of assessments, attendance at multi-agency meetings and support agreed interventions or referrals by YOT/YOS.