

**Blackburn with Darwen Joint Agency Protocol to Assist in Dealing with Offences in Residential Children's Care Homes**

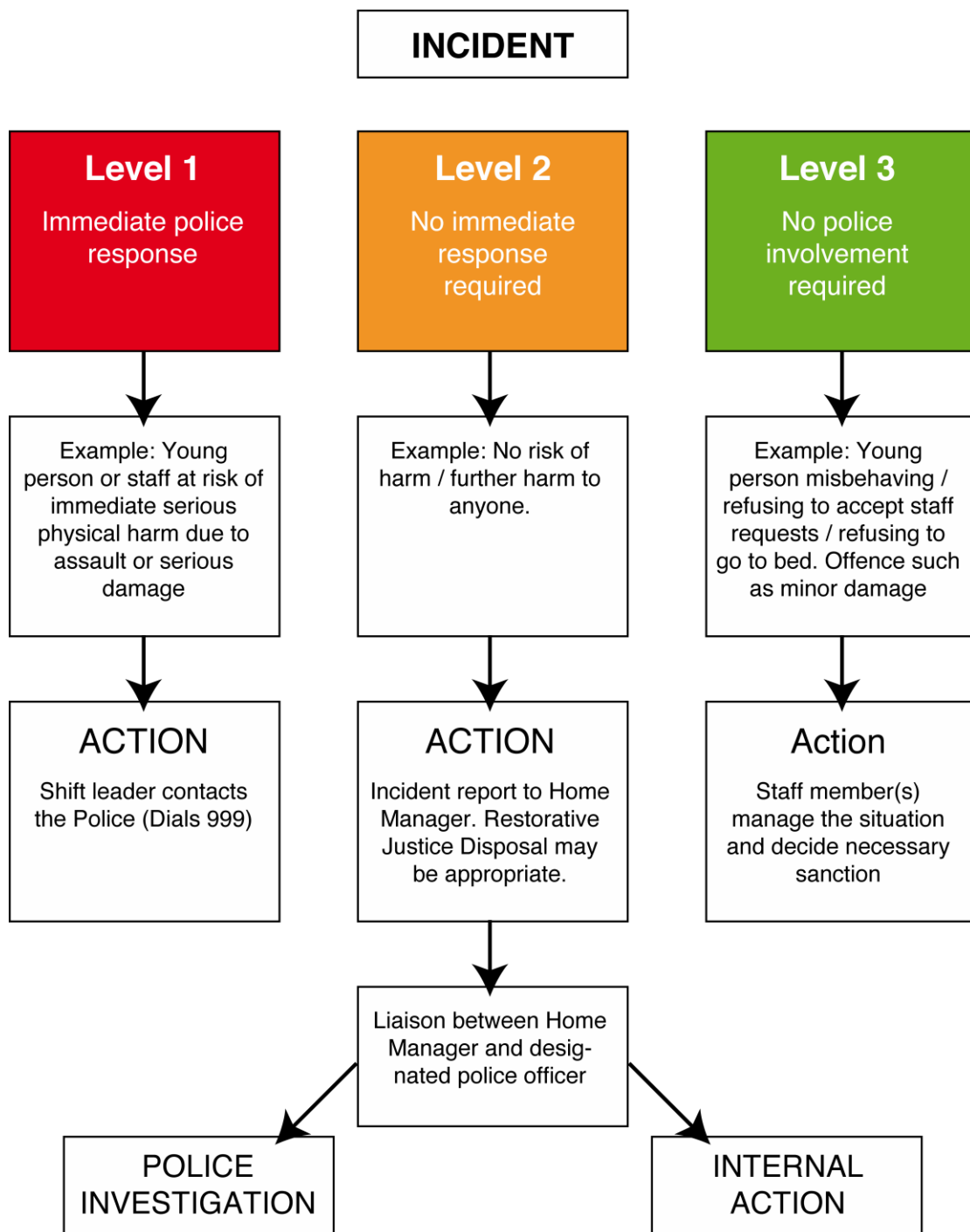


**Lancashire  
Constabulary**  
police and communities together



## RESIDENTIAL CHILDREN'S HOMES: CATEGORIES OF INCIDENT RESPONSE

This protocol must be followed when any member of the staff is considering contacting the police.



# **Blackburn with Darwen Joint Agency Protocol to Assist in Dealing with Offences in Residential Children's Care Homes**

## **1. Introduction**

This protocol is intended to assist staff in residential children's care homes, the police and the CPS, in determining an effective and proportionate response to juvenile offending behaviour within care homes. This includes incidents of a criminal nature allegedly committed by a young person in the care home where he or she lives. It does not include reports of:

- Offences committed outside the home
- Young people reported missing from the home

This protocol should be read in conjunction with the following documents,

- Children's Homes Regulations 2001 ([www.doh.gov.uk](http://www.doh.gov.uk))
- Quality Standards and Regulations for Children's Residential Homes 2015
- The CPS: Youth Offenders ([www.cps.gov.uk](http://www.cps.gov.uk)) (Appendix A)

The first two policies above establish standards of care within care homes. All care homes whether run privately, or by a local authority, must have a written behaviour management policy. They should also have procedures and guidance on police involvement in the home, which have been agreed with the local police.

The CPS protocol is guidance to assist prosecutors in determining where the public interest lies, when it is alleged that a looked after young person has committed an offence in a care home.

It is expected that the guidance contained within this new protocol will act as a framework for ensuring standardisation and best practice for looked after children in Blackburn with Darwen.

The new joint agency protocol aims to:

- Strike a balance between the rights and needs of children in care homes, care home staff, the local authority and private care homes.
- Inform decisions to instigate police action and the CPS right to prosecute.
- Underline the importance of regular and effective liaison between care home staff and the local police.

Whilst it is accepted that care home staff have a duty to report known or suspected crimes to the police, the staff will need to use their judgment about where this threshold lies, particularly when the information to hand is minimal and the crime or suspected crime is of a minor nature. All residential children's care home staff need to consider both the nature and seriousness of the incident before deciding to involve the police immediately, or at a later stage, or to involve them at all. The fact that care home staff 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 process to be taken will be determined following discussions by all concerned, including the young person in order to determine the most appropriate course of action.

## **2. Categories of Response to Incidents**

Appendix B outlines the most common incidents in care homes where police involvement might be appropriate.

**This protocol identifies three categories of response:**

- Level 1
- Level 2 (See Appendix B)
- Level 3

**Level 1 Incidents** (immediate police response required)

These include offences and incidents of violence requiring an immediate police response, where young people or staff, are at risk of immediate serious physical harm and where there is a risk of substantial damage to property or risk of significant disorder within the home. In such situations, the senior member of staff on duty/shift leader should contact the police, either via the main force switchboard or the 999 system.

**Level 2 Incidents** (no immediate police response required)

These include incidents where no immediate police response is required, for example where a physical assault or damage has occurred and there is no risk of reoccurrence/ significant harm to people, or incidents of theft. The incident should be reported to the home manager who then has the responsibility of identifying the appropriate course of action. In addition, staff within the home should inform the young person's social worker at the first opportunity.

In order to avoid any unnecessary reporting of incidents to the police, if the home manager decides (and/or the victim wishes) that formal police involvement is necessary, this should preferably be via the designated police officer at a liaison meeting which should be held on a regular basis (timescale agreed locally).

**Level 3 Incidents** (no police response required)

It is anticipated that relatively minor incidents will be addressed using routine residential children's care home procedure/policy. No police response is required.

## **3. Incident liaison meeting**

A liaison meeting should be held on a regular basis between care home staff and the local police to discuss;

- Internal action by care home staff with no police involvement
- Other incidents to be brought to the attention of the police
- The progress of current formal police investigations and any resulting action

This discussion should take place at the home and a record made of the outcomes.

The timescale of the meeting and delegated representation should be agreed locally. Where possible police representation should be a local Neighbourhood Policing Team (NPT) officer.

When a situation involving a looked after young person is to be discussed at the liaison meeting, the young person's social worker (case manager) should be informed, as they may wish to take part in the discussion.

If the need for discussion of an incident is more immediate, the home manager should arrange for the local NPT officer to visit the home as soon as possible. The

nominated officer will be identified via the Single Point of Contact (SPOC) system (details circulated amongst care home staff). If this officer is unavailable alternative officers from the NPT will be identified as part of this system. If no other officer from the NPT is available, the home manager should contact the local police control room to request a delayed or scheduled response visit by another NPT officer or if necessary a response officer.

The police should not attend the home in order to interview a young person about an offence they are alleged to have committed. Young people should be interviewed at a police station or a designated community centre with an appropriate adult from Child Action North West in attendance. Children's home staff should never act as appropriate adult and are not authorised to sign any documents relating to the offence, arrest, bail status or interview.

In certain circumstances, preservation of evidence may be an issue and care home staff will need to ensure that reasonable steps are taken to retain articles relevant to any criminal reports. The local police should provide guidance on the preservation of evidence.

The liaison meeting will also provide an opportunity to share more general views and information and to develop a better understanding of each agency's responsibilities and practices.

It is not the intention of this protocol to restrict the options available to care home staff and police officers, but to emphasise the importance of flexibility in determining the most suitable option for dealing with incidents involving looked after children

#### Behaviour Management

Each home has a Positive Behaviour Policy and staff are trained to follow the principles. A number of staff are also trained to deliver restorative justice as a way of responding to infringements within the home. The Youth Justice Service can be called upon to assist with this process. Where a young person is known to be offending in the community the home manager should seek the advice of the YJS who may be able to either support or undertake preventive work.

#### **4. Recording of Incidents Recording Incidents by Care Home Staff**

It is necessary for incidents within residential children's care homes to be accurately recorded to provide an informed history on the young person. This information then assists any assessments and liaison meetings.

All the incidents must be recorded in the young person's personal file and cross-referenced in the home log book. This provision also applies to incidents discussed at the regular liaison meeting with the police. Incidents at Level 1 involving police call out should be recorded as serious incidents and reported to OFSTED following the relevant guidance.

#### **Recording of Incidents by the Police**

The 'Home Office Counting Rules for Recorded Crime (HOCR)' determine when a crime should be recorded. This policy recognises however that in some cases an alternate method may be available and a more appropriate way to deal with the

situation than via judicial process, even though a police officer may have a crime confirmed to them. The key is that the decision making process both before and during discussions between the parties involved must be documented to negate the need for a crime report.

It is important to remember that each care home has the responsibility of care towards the resident young persons, with their welfare interests being paramount. Therefore, the requirement to record offences should be considered in conjunction with the desire to avoid unnecessary criminalisation of parties to the incident.

## **5. Appropriate Adult**

When a young person from a Care home is arrested, residential staff who attend the police station to act as an 'appropriate adult' to safeguard a young person's interests under the Police & Criminal Evidence must be trained specifically in that role. It is not appropriate for residential staff who may be the victims of alleged offences to attend as an appropriate adult, even if they have been trained in the role.

The Police are aware that Child Action North West are commissioned by Lancashire, Blackburn with Darwen and Blackpool local authorities to deliver the appropriate adult service, which 17 year olds who are now eligible to receive, whose vulnerability in police custody has now been recognised.

### **Monitoring the Protocol**

To evaluate the implementation and working of this protocol, the local police and home managers should be aware of its impact, in particular;

- The number of incidents dealt with internally
- The number of incidents dealt with jointly with the police resulting in a formal disposal
- The number of incidents dealt with jointly with the police resulting in an RJ disposal



**This protocol has been agreed by the following main agencies**

**Lancashire Constabulary Chief Superintendent**

Name Damian Darcy

Signed \_\_\_\_\_ Dated \_\_\_\_\_

**Crown Prosecution Service, Head of Magistrates Prosecutions**

Name Martin Hill

Signed \_\_\_\_\_ Dated \_\_\_\_\_

**Blackburn with Darwen, Director of Children's Services**

Name Linda Clegg

Signed \_\_\_\_\_ Dated \_\_\_\_\_

**Blackburn with Darwen, Youth Justice Service**

Name David Fleming

Signed \_\_\_\_\_ Dated \_\_\_\_\_



### **Crown Prosecution Service—Response to Offending in Residential Children’s Care Homes**

If agreed that prosecution should be sought for an incident involving a looked after child, the following factors will be considered by the CPS when deciding to prosecute, and should be included in any prosecution file presented to the CPS:

- The disciplinary policy of the home.
- An explanation from the home regarding their decision to involve the police, which should refer to the procedures and guidance on police involvement.
- Information from the home about the recent behaviour of the young person, including similar behaviour and any incidents in the young person’s life that could have affected their behaviour, any history between the young person and the victim, any apology or reparation by the young person, history of the incident and any action under the disciplinary policy of the home.
- The views of the victim, including their willingness to attend Court to give evidence and/or participate in mediation or other diversionary programme.
- The views of the key worker, social worker, counsellor or CAMHS worker on the effect of criminal justice intervention on the young person, particularly where the young person suffers from an illness or disorder.
- Any explanation or information about the offence from the looked after child.
- If the looked after child wishes it to be considered, information about the Local Authority’s assessment of his/her needs and how the placement provided by the home is intended to address them. The Local Authority should be able to provide this information, as it should be an integral part of the care plan for the looked after child.

Specialists should consider all of the aggravating and mitigating features when deciding on the appropriate outcome.

Aggravating features include:

- The offence is violent or induces the genuine fear of violence in the victim.
- The offence is sexual.
- The offence is motivated by hostility based on the gender, sexuality, disability, race, religion or ethnicity of the victim.
- The victim is vulnerable
- The damage or harm caused is deliberate and cannot be described as minor
- The offence forms part of a series of offences
- Informal measures have been ineffective in preventing offending behaviour.

Mitigating features include:

- The damage or harm caused is at the lower end of the scale and has been put right
- Appropriate action has already been taken under the disciplinary procedure of the home or other ‘informal’ disposal
- Genuine remorse and apology to the victim
- The behaviour is a symptom of a disorder or illness that cannot be controlled by medication or diet. (Refer also to mentally disordered offenders, elsewhere within the CPS’s guidance). Care should be taken where it appears that the youth has deliberately refused medication or deliberately consumed a substance knowing that his or her behaviour will be affected.

- Isolated incident or incidents which are out of character
- The young person is under extreme stress or appears to have been provoked and has overreacted

The reasons for the charging/diversion decision should be clearly recorded and show the factors that have been considered by the home manager/police officer/social worker/YJS worker etc, to determine how the public interest is satisfied.

## Example of Incidents Reported to the Police

### Violence by a child or young person to another

Incidents between residents within the home can range from minor disagreements through to serious assaults where physical injury is caused. Having two vulnerable parties can complicate such incidents. Care home staff will need to ensure that internal health and safety reporting and anti-bullying procedures are followed.

Attendant factors for this category of offences are listed below (NB the list does not reflect any order of priority).

- The wishes of the victim
- Severity of injury sustained/nature of threat received by victim
- Probability of a repeat incident
- Previous relationship between victim and offender
- Potential impact on the child/ young person following formal police involvement
- Effectiveness of police action/court proceedings
- Future best interest of both parties
- The message that such action will send to other residents
- Availability of alternative courses of action (e.g. conflict resolution approaches) – with the consent of the victim

### Violence to Staff by a Young Person

Violence towards care home staff can vary from verbal threats to physical acts amounting to assault. Whilst each home has the responsibility of care toward the residents, their welfare needs must be balanced with the rights of staff and not be subjected to violence in the course of their duties. Such incidents are affected by factors similar to those listed above.

Where there is no immediate continuing threat of violence, it is in the best interests of the staff member to take time to discuss and consider possible options. **This, however, does not remove the individual's right to involve the police.**

Following such incidents, it is important that staff utilise standard debriefing processes and follow care home policy and procedure for reporting security incidents.

**Note: Reports of ANY offence where the suspect is a staff member is NOT covered by this policy**

### Criminal Damage within the Home

The majority of incidents currently reported to the police involve damage to the care home. It is important to see these in the context of the needs of the child and whether involving the Police is an effective and proportionate response. Factors to consider are:

- Background history of the child
- The child's communication skills and preferred method of communication
- Level/value of damage caused

- Previous incidents of a similar nature by the same child or young person
- Suitability and effectiveness of police involvement
- Impact of police involvement on the child's overall plan
- Message sent to other residents
- Availability of alternative courses of action (e.g. mediation with the consent of the victim).

### **Theft within the Home**

Most offences within a home are likely to be of low value, although it should be emphasised that value is a subjective issue relative to a victim. Factors to be considered include:

- Wishes of the victim
- Nature and seriousness of the allegation
- Requirement for formal investigation (e.g. insurance claim requires a crime reference report within 24 hours)
- Availability of alternative courses of action (e.g. mediation)

### **Criminal Damage to Staff Cars and Property**

Factors for consideration would be similar to those listed above together with:

- The nature and seriousness of the allegation
- Requirement for formal investigation (e.g. insurance claim)
- Wishes and best interest of the victim
- Availability of alternative courses of action.

### **Disorder in or Around the Home**

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

- Nature and seriousness of the allegation
- Risk of threat of violence
- The wishes of and the impact on the immediate community
- The involvement of other agency (e.g. Local Housing Officer, Outreach Youth Worker)
- The availability of alternative courses of action (e.g. mediation)

### **Substance Misuse**

The misuse of controlled drugs within a care home is a serious issue and it is essential that the response is prompt and effective. In responding to incidents, carer home staff will be guided by the Government's 'Tackling Drugs Together Strategy', which proposes collaborative action to:

1. Reduce the acceptability and availability of alcohol and other drugs to young people.
2. Minimise the health risks and other damage associated with substance use by the young people.
3. Increase the safety of communities from drug related crime.

Care home staff will need to balance these principles with their duty of care for the young people in the home and their role in managing young people's behaviour as

part of their responsibilities, as well as their responsibilities to the wider community. In practice, care home staff should inform the police immediately if it is established that a young person is using illegal substances or illegal substances are found on the premises. It is important that all action taken is recorded.

All materials should be removed from the young person. Drugs and drug related materials should be stored securely before handing to the police. These should not be disposed of by staff but can be handed over for disposal without identifying the name of the young person and no further police action will be undertaken. The signature of the police officer removing the materials should be obtained.

A record of the removal should be kept by staff, which includes:

- A 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 and date the material is placed into secure storage
- The signature of the person putting the article into storage countersigned by a second member of staff
- The time and date of notification to the police, and the message number provided by the police control room
- The time and date the material was removed by the police
- The name and signature of the police officer removing the material

To ensure that controlled substances are not being stored in a care home any longer than is necessary it is important that every effort is made to ensure the police attend at the earliest convenient time.

Staff should first contact the local police control room, to arrange for the area officer to attend the home. If this officer is not available, then arrangements should be made for another officer to attend.

The officer attending is then responsible for recovering the suspected controlled substance in to police possessions and if appropriate, conducting any subsequent investigation in line with existing police policy.

Staff can dispose of alcohol and canisters but it is important that the disposal is witnessed and a record kept, which includes:

- A 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 and date of disposal
- The name of the person instigating the disposal