



# Strategy for reducing the proportion of looked after children who enter the youth justice system in Barnsley

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September 2020

## **Introduction**

Children in care often come from difficult backgrounds that can result in the presentation of complex and challenging behaviours. This behaviour can manifest itself through children in care being over-represented in the criminal justice system.

Whilst there are clearly a number of vulnerabilities as to why these young people may be drawn into offending and anti-social behaviour, in Barnsley we are 'committed to preventing their criminalisation, wherever possible.

This strategy aims to establish clear guidelines and opportunities for services working with children in care to act expediently and creatively to promote non-offending lifestyles for care experienced young people. It is relevant to every service that works with care experienced young people, including universal services.

## **Youth Justice and Children in Care Services**

Barnsley Youth Justice Service manages the cases of children who have entered the criminal justice system. Broadly, this is split into children who receive out of court disposals, designed to divert them from reoffending and appearance in court; and children who have committed offences so serious that the case is sent to court for sentence.

In Barnsley, at 31.3.2020 there were 149 young people aged 10-17 in the care of the Local Authority. 15 of these have at some point had some involvement with the criminal justice system (equating to 10%) and 3 are currently involved (2%).

These figures are, as a percentage, disproportionate when compared to all children aged 10-17 years in Barnsley (21,982 2019: mid-year estimate). Of this figure, 79 children have had some involvement with the criminal justice system (0.36% of the population). 41 are currently in the criminal justice system equating to 0.2%, having received a Youth Justice Substantive Outcome.

Based on disposal type, these consist of: Youth Conditional Cautions (8); and Court Orders (33). A further 38 children (0.2%) are engaged in diversionary programmes, none of which are in the care of the Local Authority. The 3 children within the care of the local authority all received court orders as their outcome.

In Barnsley the Children in Care service and the Youth Justice Service are jointly located within the same building at 18 Regent Street. Along with the Future Direction Care Leavers service, they undertake a joint duty system which allows information sharing and co-working. Co-location further supports the development of professional relationships that support effective practice with shared cases.

## **Information For Young People**

Information regarding this protocol and support for children in care can found on the BMBC Children in Care and Care Leavers website -

<https://www.barnsley.gov.uk/services/children-families-and-education/children-in-care-and-care-leavers/children-in-care-information-just4u/>

with links to the BMBC Youth Justice Service website -  
<https://www.barnsley.gov.uk/services/community-safety-and-crime/youth-offending/youth-justice-service/>

## **Information for Professionals**

Information can be found within the Barnsley Children's Social Care Online Procedures section 4.9.1 Children in Care in Contact with Youth Justice Services  
[https://www.proceduresonline.com/barnsley/cs/p\\_lac\\_yp\\_youth.html](https://www.proceduresonline.com/barnsley/cs/p_lac_yp_youth.html)

The roles and responsibilities of professionals who support children in care through the criminal justice system is described within the online procedures and the Youth Justice website.

## **Key principles**

In Barnsley professionals working to support Children in Care work to the following principles:

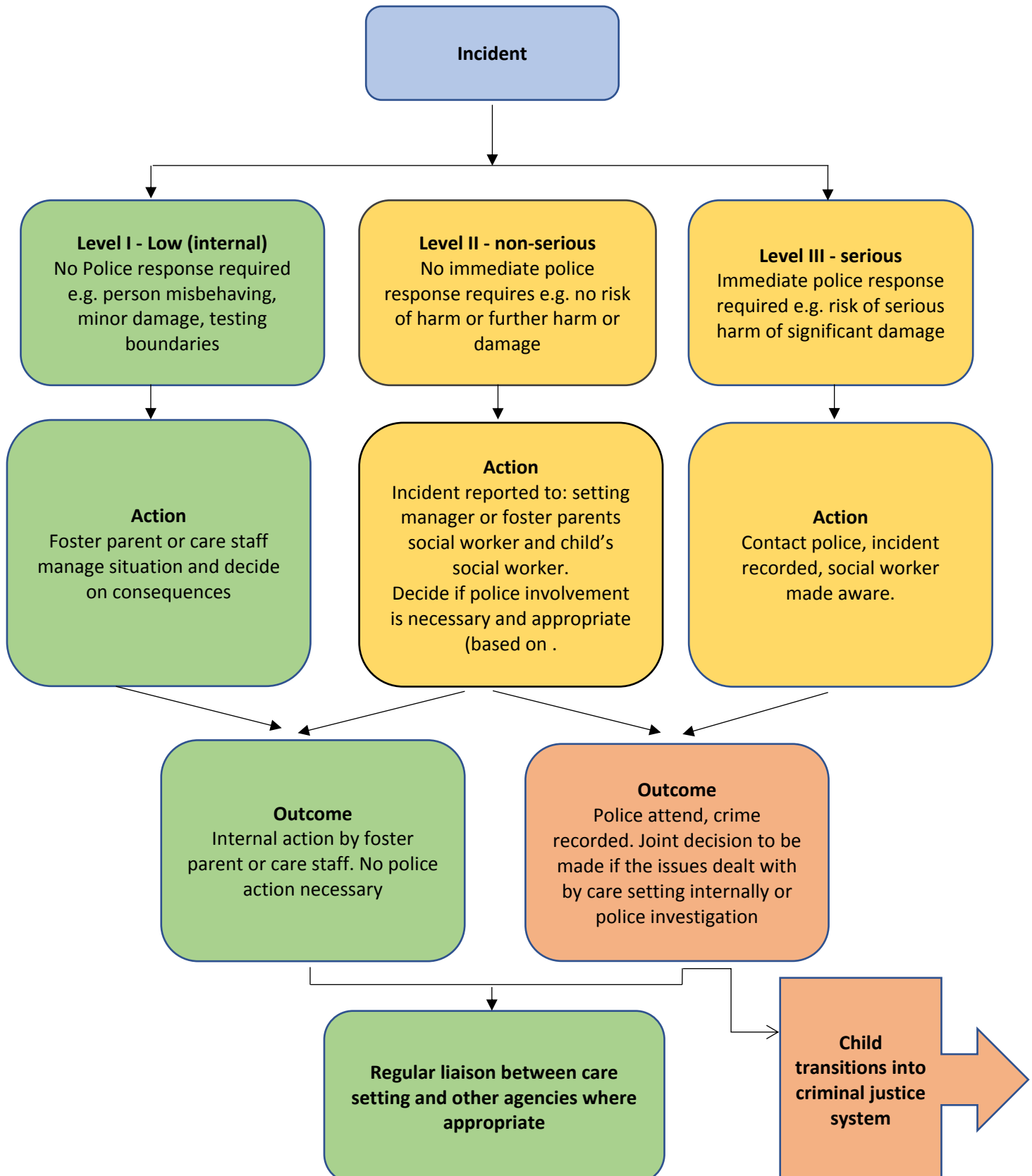
- Every effort should be made to avoid unnecessary criminalisation of children in care. It is recognised that criminalisation can be a barrier to successful transition to adulthood and future life prospects and in acknowledgement that the life histories of many children in care make them particularly vulnerable to involvement in the criminal justice system.
- It is every professional's responsibility when working with children in care to endeavour to understand the underlying causes of a young person's behaviour.
- All professionals have a duty to ensure that any special needs presented by children in care such as mental illness or speech and language difficulties are acknowledged and addressed in the management of the response to the behaviour.
- Victims and communities have a right to be protected from young people who offend and an entitlement to have their needs and interests considered in finding ways forward in the aftermath of challenging/offending behaviour.
- Restorative approaches should underpin our response, whether this behaviour occurs 'in-house, within the home or out in the wider community. This involves a commitment to work restoratively not only with those children in care but also those who they may have harmed by their behaviour.
- All professionals working to support children in care should pursue an integrated approach to reduce offending. Whilst applying their knowledge of Contextualised Safeguarding as a Risk Management tool. The Barnsley Multi-Agency Contextual Safeguarding Team – Team Specification and Operational Guidance can be located:  
[https://www.proceduresonline.com/barnsley/cs/user\\_controlled\\_lcms\\_area/uploaded\\_files/Barnsley%20Multi-](https://www.proceduresonline.com/barnsley/cs/user_controlled_lcms_area/uploaded_files/Barnsley%20Multi-)

[Agency%20Contextual%20Safeguarding%20Team%20Specification%20and%20Operational%20Guidance%20Sep%202020.pdf](#)

- Those children in care already within the criminal justice system also need protection from escalation and these principles should apply to them equally.
- It is in the best interests of young people to remain in Barnsley wherever appropriate where they can benefit from local services.

## Deciding How to respond to an incident: Steps to potential Police Action

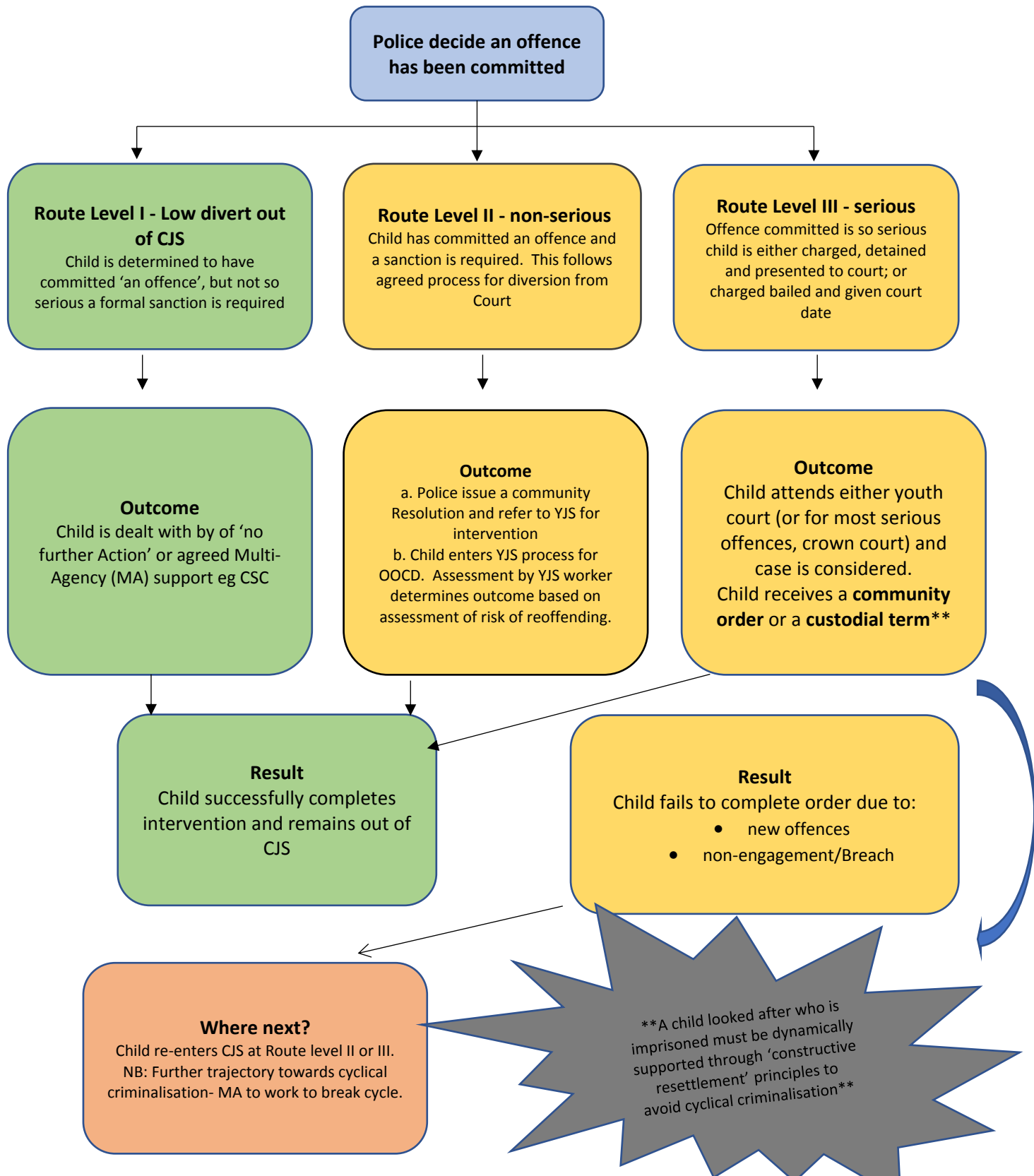
This flowchart provides an overview of how decisions made by adults in a child in care social and professional ecology determine their projection along the criminal justice system. Key to note is that at every step, a decision by an adult has the potential to divert the child from formal police involvement. All **AMBER** and **RED** steps represent periods of risk for the child in terms of decisions placing a child closer to the CJS.



## A child's journey Through the Criminal Justice System

Once the decision has been made for police to formally deal with an incident, it becomes an 'offence'. Again, there remain multiple steps at which decisions can be made by the professionals involved in the process stage to divert the child from criminalisation. Key is for each professional to refer to service/national protocol in respect of diversion.

NB: if a child is imprisoned, all services will manage the case based on the process for [YJB Constructive Resettlement](#)-this provides a detailed overview of the journey of the child during a period of custody to resettlement.



## **Police Involvement and Decision Making**

In Barnsley there is an expectation that that staff and carers of children in care will strive to manage challenging behaviour at the placement address by way of internal resolution without involvement of the police wherever possible.

Where this is not appropriate such as where there is concern about immediate safety, and where police become involved, the police should consider use of discretionary powers to apply an informal resolution response (such as community resolution).

In circumstances where such a response is inadequate in the face of the seriousness of the offence then police should routinely consider potential for diversion from criminalisation/prosecution through discussion. In Barnsley the Police would make a referral to the YJS and an assessment would be completed and discussed at the Triage Panel and to consider suitability for a restorative case managed informal resolution, wherever such disposals are available: taking into account the wishes of those harmed and where the young person makes admissions to the offence. The good practice principle here is for procedures to allow for a cooling off period, for decisions to be reached in slow time and informed by key workers/officers (such as police link workers for residential settings).

Where a young person declines to make admissions or where the offence is serious enough to merit consideration of prosecution then Crown Prosecution Service guidance on decisions to prosecute children in care should be considered.

All Police officers should refer to the 'Ten point checklist' before considering prosecuting a Child in Care. The Police are required to ask the following questions before proceeding to CPS:

- What is the Disciplinary Policy of the Children Home?
- Why the Police have been involved and is it as agreed in the Policy?
- Has any informal / disciplinary action already been taken?
- Has there been an apology or reparation?
- What are the Victim's views?
- What are the Social Worker's views?
- What is the Care Plan for the Looked After Child?
- What is said of the recent behaviour of the Looked After Child?
- Are there any aggravating or mitigating features?

## **Response to incidents occurring outside the care placement**

Where incidents occur outside of the care placement that may involve harm caused to members of the public then ideally police and or partners will consult with those involved and explore potential for cases to be dealt with by means of informal resolution (restoratively) wherever this is possible and within the scope of local joint decision-making arrangements.

## **Management of PACE (Police and Criminal Evidence Act 1984)**

Barnsley are signed up to a regional Contract for the management of PACE in respect of children who are arrested and placed in police custody. This is covered under the South Yorkshire Appropriate Adult Scheme, currently delivered by Change, Grow, Live (formally SOVA).

This scheme ensures that for every child who does not have a suitable appropriate adult to support them from their own support system (family, carers, wider social network), then a volunteer would attend and provide that support. It is the expectation that every Barnsley child in care is supported by someone assigned to care for them unless either:

- They are the direct victim of the offence
- Logistically this is not feasible (location of custody is out of area; the carer has duty of care to other children and no availability of cover after steps made to seek it).

## **Custodial**

Children in care who receive a custodial sentence or remand are often the most vulnerable with multiple, over-lapping risks and needs requiring careful oversight and support from youth offending teams, children's social care and the custodial establishments.

If their involvement in offending is to be successfully addressed, preparation and planning for their through-care and resettlement should start from their point of entry into the establishment and involve all relevant professionals in their lives. Particular attention should be given to the early identification of suitable post-custody accommodation. This will be overseen through the weekly Placement Sufficiency Oversight and Resource Panel:

[https://www.proceduresonline.com/barnsley/cs/local\\_resources.html#lac](https://www.proceduresonline.com/barnsley/cs/local_resources.html#lac)

Practice in respect of the management of children who receive custodial sentences is aligned with the national guidance provided by the Youth Justice Board (YJB). This includes 'How to Make Resettlement Constructive' (<https://yjresourcehub.uk/custody-and-resettlement/item/610-how-to-make-resettlement-constructive-yjb-document.html>)

Barnsley is also signed up to the South and West Yorkshire Resettlement Consortium. This ensures Barnsley practice is:

- aligned with peers in the region.
- influenced by examples of good practice.
- fed into joint strategies and studies to further increase understanding of the cohort.

Key to this is an agreement to ensure that children are aware of release address 4 weeks prior to their release date.

## **Barnsley Children in Care Placed Outside of Authority**



Barnsley children in care placed outside of authority should be afforded the same protection against involvement in offending and criminalisation as those placed within Barnsley.

Within the South Yorkshire region there are reciprocal arrangements giving other local authority children in care the same protection as home children in care and the opportunity to achieve the same outcomes as their peers.

Where a child in care offends out of the Barnsley area then it will be the duty of those in the area in which the offence has taken place to consult and discuss ways forward with professionals within Barnsley to ensure informed decision-making and that appropriate action is taken to address the risk of repeat offending in the future.

To assist in the above each local authority/police area will work to ensure that a directory of key contacts is in place to ease communication – <https://adcs.org.uk/contacts/out-of-area-looked-after-children-notifications-england#view2>

Local decision-making practices will vary from one area to another but as a general principle in all cases (other than where there is a clear non admission of responsibility) all children in care decision making ought to be referred to the new joint decision-making panels that have arisen from the 'legal aid, sentencing and punishment of offenders act 2012'. These joint decision making panels need to have special regard to decision making in respect to children in care that ensures decision making is informed by information gathered from professionals associated with the child with a view to ensuring that the best possible service can be mobilised to address the unmet needs of those involved, support any restoration and work to reduce the risk of further offending.

### **Children in Care Placed in Barnsley from other Local Authorities**

The Care Planning, Placement and Case Review statutory guidance and the associated regulations updated in 2013, outline duties on local authorities to notify other local authorities if they place a child in care within their area. Local Authorities are also encouraged to notify the relevant police force when a child is being placed out of area, based on the needs/risk of the child.

Barnsley MBC provide information as to the information required from other Local Authorities who are considering placing children in the Borough and provide information of services available to them. <https://www.barnsley.gov.uk/services/children-families-and-education/children-in-care-and-care-leavers/placing-authorities/>

Any child placed from another area that is subject to either an Out of court disposal, or court order is supervised by Barnsley Youth Justice Service, subject to the parent authority Youth Justice service completing the required caretaking and transfer paperwork in line with the youth Justice Board National Protocol For Case Responsibility. This protocol further determines that in respect of Children In Care, Barnsley Youth Justice Service would only ever care-take the child, and there is an

expectation that the parent authority multi-agency maintain an active and supportive involvement in the child's life and the decisions made regarding supervision.

If it is felt by Barnsley YJS that the parent authority are not adequately engaged in the full multi-agency management of the case, escalation will be commenced, initially between teams; if this is not resolved at this stage, the Barnsley Youth Justice Service Operational and/or Service manager will escalate to Head Of Service, who will determine further steps to be taken.

## **Oversight**

### **Corporate Parenting Panel**

The Barnsley Corporate Parenting Panel receives an annual performance report so that they have an accurate picture of offending by children in their care and challenge services to ensure systems are in place to identify all those who are offending whether placed within Barnsley or outside.

### **Youth Crime & ASB Board**

The Youth Crime and Anti-Social Behaviour Board provides governance, oversight and challenge to strategic and statutory partners and is responsible for Barnsley's strategy for addressing crime and anti-social behaviour by young people aged 17 and under. The Youth Crime and ASB Board oversees and monitors the Youth Justice Service for Barnsley and ensures that there is a robust strategy to prevent crime and anti-social behaviour before it happens and to address crime and anti-social behaviour when it has happened. Within this, there is a clear expectation that Barnsley has a clear protocol and strategy for reducing the criminalisation of children in care.

## **Appendix 1**

### **Relevant Legislation and Guidance**

- National Protocol for on reducing unnecessary criminalisation of looked-after children and care leavers (2018)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/765082/The\\_national\\_protocol\\_on\\_reducing\\_unnecessarily\\_criminalisation\\_of\\_looked-after\\_children\\_and\\_care .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765082/The_national_protocol_on_reducing_unnecessarily_criminalisation_of_looked-after_children_and_care.pdf)
- The Association of Chief Police Officers - Advice for Crime Recording by Police Officers Dealing with Incidents at Children's Homes (1<sup>st</sup> September 2010).
- The Crown Prosecution Service – Legal Guidance regarding Youth Offenders – Offending behaviour in Children's Homes.

- Sentencing guidelines-Overarching principles (2018)  
<https://www.sentencingcouncil.org.uk/overarching-guides/magistrates-court/item/sentencing-children-and-young-people/>
- In Care, Out of Trouble-Laming independent Review (2016)  
<http://www.prisonreformtrust.org.uk/Portals/0/Documents/In%20care%20out%20of%20trouble%20summary.pdf>
- South Yorkshire Police Statement of Agreed Policy on Enforcement of Community Penalties (D51096).
- South Yorkshire Police Restorative Justice Policy (D51505).
- The Children Act 1989, 2004 and 2008.
- Care Standards Act 2000.
- Crime and Disorder Act 1998.
- Legal Aid, Sentencing & Punishment of Offenders Act 2012.
- Anti-social Behaviour Crime and Police Act 2014.
- Housing Act 1996.
- Children Leaving Care Act 2000.
- Yorkshire and Humber Accommodation Standards for Children Leaving Custody (Dec 2016).
- Departments for Health and Education – Promoting the health and well-being of looked-after children: Statutory guidance for local authorities, clinical commissioning groups and NHS England (March 2015).