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This Service Instruction will provide guidance for Officers when dealing with young people suspected of committing offences.

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1. Introduction

The Police Service of Northern Ireland (PSNI) is committed to reducing crime and anti-social behaviour caused by children, through the use of appropriate disposals. We want to stop children from entering the Criminal Justice system and prevent re-offending by working in partnership with other agencies. We are focused on vulnerable groups and those most at risk of harm, treating all children with dignity and consulting with them on policing issues.

2. Identifying Vulnerable Children

Police Officers in direct contact with children should recognise the possibility that individual children may have particular difficulties or special needs, and that there are features of these conditions or circumstances, which make it more likely that they will come to the attention of police. For this reason, children under 18 years, coming to the attention of police, whether as a victim, suspect or witness, should be referred to the Youth Diversion Officer (YDO), who will identify and monitor the risk to individual children.

Appropriate support is also available through the Northern Ireland Appropriate Adult Scheme and if required, the Registered Intermediary Scheme.

It is important that when Officers come into contact with Youth Offenders, they can spot the signs associated with vulnerability. An offender may be deemed as vulnerable if, as a result of their situation or circumstances, they are unable to take care of or protect themselves, or others, from harm or exploitation.

Police often come into contact with young people in crisis, who have already suffered or are at risk of harm. The ability to recognise vulnerabilities and, to maintain an open and enquiring mind, present crucial opportunities for appropriate action, for example, safeguarding.

Part of the duty of every member of the PSNI to safeguard and protect children is to assist staff within Health and Social Care (HSC) Trusts – (Social Services) in the exercise of their duty to investigate whether a child is suffering or likely to suffer Significant Harm.

Any concerns regarding vulnerability should be shared with Social Services through submission of Form 0 following discussion with Supervisor and / or Youth Diversion Officer.

3. Non-offence Behaviour

'Anti-social behaviour' is recognised as a potential gateway to future offending. If a child comes into contact with Police for reasons of potential risk-taking behaviour, other than offence behaviour, a record will be completed by the Police Officer making that initial contact. The child and their parent/guardian must be informed of their right to legal advice. The incident should then be flagged, for the attention of the YDO, for the appropriate action to be taken. Officers have a duty of care towards the public, particularly towards vulnerable children.

All children under the age of 18 years, who come to the attention of Police for non-offence behaviour, (i.e. not an offence contrary to any statute/regulation) may still be displaying certain risk factors which may make the child more susceptible to becoming involved in offending behaviour.

Those same risk factors, or other circumstances, present at the time of contact, may alternatively give cause for concern as to the child's safety or well-being. It is essential that Police Officers deal appropriately with the child, acting within the law, adhering to the principles of proportionality, necessity, impartiality and sensitivity. This must be balanced with a need to record sufficient detail of that contact for the purposes of accountability, and to enable early identification of risk, particularly when it is evidenced by a pattern of behaviour or circumstances to enable this to be shared with other organisations. This will hopefully assist in preventing the child coming to harm or being placed in situations where they would be vulnerable.

When information is provided to the YDO, they should have the details entered on the Non-Offence (Non-Case Prep) page of the Youth Diversion database.

In cases where a parent/guardian is unaware of the contact by the Investigating Officer, contact will be made with the parent/guardian of the child to inform them of the details of the interaction and provide a contact number for further information.

There is no limit to the number of Non-Offence Referrals a child can receive.

If the Youth Diversion Officer receives 3 such referrals for a particular child, within a rolling 12 month period, commencing with the date of first contact, then the Youth Diversion Officer should automatically consider referral of that child to a relevant agency or multi-agency forum.

Such a referral can only be made with the informed consent of the parent/guardian using Form YD2/YD2(a) letter to parent or guardian, where no offences are disclosed. A record of this contact both in terms of the referral and that of receiving the consent from the parent/guardian should be recorded on the YDO database.

Experience has shown that children below the age of 10 years (the age of criminal responsibility) may sometimes act in a manner which would be considered an offence. Details of a child in these circumstances cannot be recorded under offence behaviour as, legally, they cannot commit an offence.

The incident may be recorded as a 'Non-Offence Referral' on the basis that they could be at risk of becoming involved in further similar type behaviour placing themselves or others at risk, or at risk of becoming a victim. This will assist in monitoring of risk in relation to the child and keeping them safe.

Police should take appropriate and immediate action in respect of a child, including referral to Social Services, if they believe that individual would otherwise be likely to suffer significant harm.

Therefore consent is not an issue if Police are acting under Article 65 Children (NI) Order 1995 – “*Where a constable has reasonable cause to believe that a child would otherwise be likely to suffer significant harm.*”

Referral to a partner agency/multi-agency forum may be made at any stage prior to the third Non-Offence Referral being recorded, if the YDO feels there are genuine concerns or reasons for doing so. These should be fully documented on the Youth Diversion database. The same procedures in terms of securing the

informed consent of the parent/guardian apply in this instance.

Records of Non-Offence Referrals recorded on the Youth Diversion database will be removed after 12 months in accordance with current instructions, provided no further contact of this type has taken place or the initial behaviour was not one which would warrant retention due to the risk displayed (i.e. sexual behaviour).

Details of Non-Offence Referrals should not, as a matter of course, be made available to the decision-maker for children who have committed offence related behaviour. Only if there is information of particular relevance to the offence in question should it be brought to the attention of the decision-maker (PPS).

Non-Offence Referrals will **not** be included in an investigation file in respect of a child, unless, in exceptional circumstances the information is considered as relevant as to mitigate on behalf of the child, or would go to provide relevant evidence of a pattern of behaviour. The reasons for inclusion of Non-Offence Referral information in an investigation file must be clearly documented.

It is important that any risk displayed is reduced through early identification and appropriate intervention. Focusing on these issues will ensure that vulnerable children are assisted in reducing their risk of becoming involved in criminal activity. This may include those children or siblings of identified repeat offenders who are displaying elements of risk in terms of their associations or other risk factors.

Any occurrence involving the child will be created as a task to the YDO on Niche and will be for information only. This will give Officers accurate, and up to date, information in relation to the child's activity and ensure that YDOs and both Local and Neighbourhood Policing Teams can signpost or interact as necessary as well as inform partner agencies of concerns they have in relation to the child.

4. Offence Behaviour

Careful consideration must be given to the 'necessity' criteria before arresting any child, but particularly when a child is looked after by an authority (looked after child). Discussion must take place at the earliest point, with parents/guardians, to ensure the

expectation that the child will be returned to their home/family when enquiries are completed. This may not be considered appropriate if there are serious risks posed to the child, other family members, residents or staff. In the case of a 'looked after' child, the discussion will take place with Senior Staff of the Residential Home, and forethought and planning given to the return of the child to their home after release.

Parents/guardians or the Children's Home, (as the public authority and corporate parent) have a responsibility to plan for the child's return. If there are risks to the child or others, Police and residential staff will work in conjunction with the child's field Social Worker to find an alternative placement. Where Police have concerns that the guardians are not capable of securing an address, they should try and seek alternative arrangements at the earliest opportunity.

It is the responsibility of Social Services to locate accommodation for a homeless child, however, Police should assist as much as possible to ensure the child can get a suitable address to obtain bail.

Articles 37 and 40 of the United Nations Convention on the Rights of the Child are particularly relevant here:

Children who break the law should not be treated cruelly, or put in prison with adults. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time (Article 37).

If children are accused of breaking the law they should receive legal help. Prison sentences for children should only be used for the most serious offences (Article 40).

A child **and** their respective parent/guardian must be provided with the appropriate information regarding their right to free, independent, legal advice and all the potential outcomes in relation to the disposal of their case, including the Youth Diversion Scheme. It should be documented clearly when this has been provided and it must be provided in an age appropriate manner which the child can understand.

This must include information as to the effect of the new Access NI Filtering

scheme in their particular case, and how long the record will be held on Police records and the implications of Standard or Enhanced Disclosure application in the future

In doing so the Investigating Officer (IO) provides those involved with the opportunity to make an informed decision as to how to proceed. This information must include the fact that all diversionary disposals can be cited in court for an offence listed under the Sex Offenders legislation, the requirement for notification and inclusion on the Sex Offenders register, where appropriate. (Aide memoire see [Appendix A](#)).

It must be made clear to suspects that all Diversionary Disposals are recorded on criminal records although they are not a criminal conviction. (A prosecution may result in a conviction.)

- A **Community Resolution Notice** will be kept on record for 12 months from the date the resolution is completed and if relevant, may be disclosed as part of an Enhanced Criminal Record Check (ECRC) and may be referred to in decision-making by the Public

Prosecution Service, if the child offends again.

Within the stated time periods the following disposals will be disclosed as part of a Standard or Enhanced Criminal Record Check (ECRC) and may be referred to in decision-making by the Public Prosecution Service, if the child offends again.

- An **Informed Warning** will be kept on record for 12 months from the date it was issued.
- A **Restorative Caution** will be disclosed for 24 months from the date it was issued.
- A **Diversionary Youth Conference** will be disclosed for 24 months from the date of ratification by PPS.

After this time, a record for some (more serious) offences as specified by Access NI will always be disclosed as part of any vetting checks i.e. where disclosure is necessary to protect vulnerable children or adults, the record may be subject to disclosure as part of an enhanced criminal record check, under prescribed conditions. There are certain offences which will never be filtered out and will always be disclosed

on a standard or enhanced criminal records certificate. These can be found at the following link - [Specified Offences](#).

This allows Police to ensure that all necessary steps are taken to protect individuals.

The record may be released to a court at any time in the future in the event of further offending.

This information must be made available to those involved prior to any questions or interview taking place to determine whether the child admits the offences placed before them, so that consent to accept a diversionary disposal is informed consent and the child and their parent or guardian have a full understanding of the meaning and consequences upon accepting the disposal. They may wish to seek legal advice in relation to this, and this should be encouraged.

Information on the potential outcomes including the Youth Diversion Scheme, should be given in an open and transparent manner, and the child should not feel under any pressure to admit guilt. The form of words to be used will be read to the child

(aide memoire see [Appendix A](#)) after they have been formally cautioned.

In situations where there are co-accused, each offender should be considered separately and differing disposals may be justified. Where a child commits an offence, except where the decision is for a Community Resolution, the facts of the case will be forwarded to the Public Prosecution Service (PPS) for decision. The following options for disposals are available:

- Community Resolution; YJA offender awareness sessions available as a requirement of resolution agreement;
- Community Based Restorative Justice; CBRJ within Northern Ireland continues to evolve. Further development of CBRJ and policing relationships with accredited Restorative Justice Organisations is a valuable resource in dealing with local community issues to prevent harm, particularly in areas where communities can be harder to reach. Non offence referrals can be made direct to DoJ accredited CBRJ groups. Criminal matters can only be referred with the approval of PPS.

- Informed Warning; issued at Youth Engagement Clinic;
- Restorative Caution; issued at Youth Engagement Clinic;
- Youth Justice Agency Diversionary Youth Conference; and
- Prosecution; this can include a court ordered Youth Conference.

5. Stop and Search / Question

Extra time must be taken to explain to children the reason why they have been selected to be stopped and searched/questioned. By the nature of their activities, being outdoors and more often in public areas, they are likely to encounter Police more than the general population.

Our conduct may be an opportunity to develop relationships with children during these exchanges. Where children are the subject of a Stop and Search/Question, or where a child is present during a search, every reasonable effort should be made to minimise embarrassment that the child may experience. Information cards should be provided to an individual being searched.

These provide the date & reference number of the search & the station of the Officer who is in charge of the search.

This will facilitate any request for a copy of the search record. In addition to the information we are legally required to provide to the subject, in relation to the search, it may be appropriate to read or explain the content of the information card to the child, particularly if it is known that the child has a learning or literacy difficulty.

For further reference on stop & search please refer to the [Service Instruction](#).

6. Youth Engagement Clinics and Diversionary Disposals

The objective of Youth Engagement is to assist in the identification of, and early intervention in, those cases which are deemed suitable for diversion from the court system. It aims to encourage young people to engage effectively in the diversionary process and with supports, as deemed appropriate.

A Youth Engagement clinic is a meeting between the young person suspected to be

involved in an offence and youth justice workers from the Youth Justice Agency and the PSNI. They will tell the young person what the PPS has decided in their case, and explain to them what that means and the options and support available to them.

The case can only be dealt with using a diversionary disposal if the suspect admits responsibility for the offence and accepts the PPS decision. At the Youth Engagement clinic they will have to decide whether to admit responsibility and accept the diversionary disposal offered or if they wish to progress to court.

Referrals may be made in cases whether or not the young person has admitted responsibility for the offence.

Cases not eligible for Youth Engagement

Those involving offences which, had the suspect been an adult, would only be tried in the Crown Court.

In exceptional circumstances, it may be appropriate, for an offence which can only be tried in the Crown Court to be referred to a Youth Engagement Clinic. Contact the

YDO or PPS youth engagement contact to discuss, if required.

Offences involving a young person who is a repeat offender.

Consider the number of previous diversionary disposals and convictions amassed; whether current offence and previous offences are of a similar nature; the length of time passed between current offence and young person's prior; other offending.

As a rough guide, a young person will not be eligible if they have 5 or more previous diversionary disposals or convictions for offences of a similar nature to those he/she presently faces.

Motoring offences (which carry penalty points or disqualification).

Where the young person is of an age whereby he/she could have the necessary driving licence and insurance in place in respect of the vehicle in question. (If there are mitigating factors, the offender may get a diversionary disposal but this would be very rare). Underage drivers fall into a separate category and the PPS are more likely to divert them as there is no prospect

of a licence being endorsed or them being disqualified.

The investigating Officer should seek disposal advice from their supervisor or Gatekeeper, and also consult with the YDO at the earliest practical opportunity.

The Youth Engagement (YE) file

If you decide that the young person is eligible for a youth engagement clinic please follow below:

- Get **YE2** form signed by young person and appropriate adult and inform them that they are to be reported to PPS for the alleged offence (You should only do this when you are case ready);
- Submit **OMF2B** electronically to OCMT and submit a copy of YE2 to the YDO (the original YE2 must go in your red folder to the Occurrence Case Management Team (OCMT));
- **Occurrence Enquiry Log entry** regarding the disposal and YE2 details (including details of parent / guardian) and workflow YDO. YDO will arrange the clinic date with the young person and their appropriate adult;
- **YE FILE** - Complete YE file on Niche, ensuring to include victim's views on diversion on Prosecutorial Information Form (PIF). (YE status – suitable for scheme: the YDO will complete the clinic date), justice and security, streamline outline of case, outline of case (stating Streamline YE file) and recommendations. Submit to YDO for their recommendations.
- Submit **red** folder (this is important to ensure prioritisation) with documentary evidence including YE2 and key statements to OCMT via supervisor. If there is CCTV, shared via DEMS or PPS have requested hard copies, the required number of copies should be hand delivered to the PPS office and the fact that CCTV has been shared by whatever means, recorded in the structured outline of case (SOC) or Prosecutor Information Form (PIF). The red folder must be with OCMT within 7 days of the young person being reported and the YE2 being signed. OCMT have 3 days to send the completed file electronically to the PPS. The Youth Engagement Clinic must be held within 30 days of the YE2 being signed.

If the Youth Engagement clinic is unsuccessful and the case is to proceed to court, the PPS will issue a Request for Further Information (RFI) detailing what further is required. The IO has 15 days to complete this RFI.

7. Police Disposals

Both Informed Warnings and Restorative Cautions represent administrative processes for dealing with offending behaviour. Such processes therefore potentially impact on Article 6 ECHR, the entitlement to a fair trial, and Article 12 UNCRC. Children have a right to be heard and to have their opinions taken into account in issues which affect them. This particularly applies to judicial or administrative proceedings.

The child and their parent/guardian or Appropriate Adult must be given access to independent legal advice which will be paid for by Legal Aid. They must be provided with sufficient information in relation to all potential outcomes and the consequences, to enable them to make an informed decision as to how to respond to any disposal.

Both forms of disposal will be delivered by a Police trained facilitator and are based on restorative practice. An Informed Warning will only be delivered by Police trained facilitators and will not always include the actual attendance of the victim:

A Police trained facilitator is a person who has undertaken the PSNI Restorative Justice Facilitation Course provided by PSNI Policing College.

Decision Making Process

With the exception of [Community Resolution](#), the PPS will make all decisions regarding Police diversionary disposals relating to children. The PPS have senior prosecutors who are 'Youth Champions' in each court administrative area and who oversee all youth related cases, ensuring they are dealt with quickly.

All cases involving a suspect under the age of 18 years, must be referred to a supervisor for evidential guidance and disposal advice. The Youth Diversion Officer will provide advice in relation to the child's background and offending history and must make a recommendation on every youth case. The YDO may also hold sensitive information in relation to the child

or family which PPS would consider in their decision-making as to the outcome of the case.

It is vital that all relevant information pertaining to the case should be made available to the decision-maker (prosecutor). Particular emphasis should be placed on information provided by those agencies with a statutory responsibility for children such as Health Trusts, Education Welfare, Probation Service, and Youth Justice Agency.

The provision of any external information must be in written format if it is to be included in any subsequent report by the YDO to the prosecutor. It is essential that the provision of such information is in accordance with each service provider's policy and procedures, and compliant with the Human Rights Act, Data Protection Act and the Freedom of Information Act.

Community Resolution Notice (CRN)

A Community Resolution, as a disposal, may be applied to deal with minor offences. This method of disposal is aimed at delivering effective and proportionate Criminal Justice outcomes, which meet the needs and expectations of victims and

communities, whilst maintaining accountability. It allows Officers to use their professional judgement in managing low level and local crimes through the use of discretion. CRN can only be utilised for offences outlined within CRN RAG list and within the specified criteria.

Community Resolution Notice can only be issued to any child under 18 with the approval of the YDO - prior to the CRN being issued. This is to allow consideration of the proportionality of both the disposal and any reparation which may be offered to the victim to address the harm caused.

The victim does not have a veto on the use of Community Resolution, and in determining the most appropriate disposal option, investigating Officers must consider risk, the vulnerability of victim and suspect, and the evidential and public interest tests. Investigating Officers must ensure that full details of their decisions, actions, and rationale, are recorded on the OEL log. A Police Officer must act at all times in accordance within the Code of Ethics for the PSNI, and established policies, instructions and guidelines.

An offence, committed by a child under 18 years, may be suitable for a Community Resolution disposal depending on the seriousness of the offence and previous record, but will require authorisation by a supervisor. In the case of a child, it is particularly important to ensure that individual children do not receive multiple informal warnings as to their behaviour from different Police Officers, and thus fail to be identified as at risk of progressing into a cycle of offending.

Whilst there is no maximum number of CRNs an offender may receive, in normal circumstances an IO should only issue a CRN in exceptional cases where the offender already has two CRN in a rolling 12 month period'. If the child is a regular offender, they are unlikely to meet the criteria for CR. The benefits of issuing a CRN as a deterrent must be closely assessed by a supervisor and YDO.

Where a child has had two previous Community Resolution disposals in a rolling 12 months from date of completion of last disposal, they will not be considered suitable for a further discretion. The YDO must promote regular contact with Officers to ensure effective sharing of Information,

and monitoring of risk in respect of children who regularly come to the attention of police. However offences which carry mandatory penalty points will not usually be considered by PPS for diversion unless the public interest in imposition of the penalty is less compelling.

Informed Warning

An Informed Warning will be administered in the same manner as that of a Restorative Caution outlined below, however there are subtle differences that need to be noted. The Informed Warning is seen as the disposal best placed to address low level offending and in most instances it does not require a face-to-face meeting with victims and offenders etc. and must be delivered by a Police trained facilitator.

Restorative Caution

The Restorative Caution will be delivered by means of a restorative conferencing process, by a trained facilitator, who may be a Police Officer, a representative from a partner agency, or in some instances a community representative. The aim of the Restorative Caution will be to provide an opportunity for the child to meet their actual

victim and affected members of the community. Informed consent by way of signature is required from the offender and parent/guardian, before proceeding with this disposal. It will be necessary for the facilitator to meet with all participants of the process in an effort to provide the necessary information/assurances to each individual before the commencement of any restorative intervention.

It must be the aim of every facilitator where appropriate to involve the actual victim in a Restorative Caution process, thereby allowing them the opportunity to meet the perpetrator of their crime and to address their respective issues face-to-face. The victim will require full explanation of what the process involves and should be encouraged and supported to attend the Restorative Caution process.

This process will require a full explanation to the offender as to the consequences of the disposal, e.g. recorded on criminal record, the requirement to be placed on Sex Offenders register where appropriate, and any other possible consequences. ([See below](#)).

All Police diversionary disposals will be delivered in the area where the offence occurred (unless circumstances dictate otherwise). Where the child offends outside the area in which they reside, the onus is placed upon the YDO in the area where the offence occurred to facilitate the Restorative Caution. Any relevant information pertaining to the child, including the collation of external agency information should be forwarded to the relevant YDO by their counterpart in the area of residency. This information should be provided in a manner to allow for the strict compliance of file preparation guidelines. Virtual Youth Engagement Clinics can be utilised where the case has been assessed as appropriate to be dealt with in this manner (low level offence and nature of child involved) and agreement has been reached between PSNI, YJA and the child/parent/guardian and legal representatives if applicable.

Restorative Cautions should be delivered in an environment which is deemed most appropriate to all participants of the process, recognising individual needs such as access for persons with disability, cultural issues, and other factors such as personal safety, confidentiality and

sensitivity, which may impact on persons, groupings or communities.

The details of the final disposal will be shared by both YDOs and recorded as such.

Children's Diversion Forums

The overall aim of Children's Diversion Forums is to contribute to the reduction in first time entrants to the formal criminal justice system (Programme for Government Outcome 7, Indicator 1) by:

- Diverting children from the formal criminal justice system at an early stage.
- Sharing available information about children who are referred by any of the partner organisations.

Assessing if additional intervention is needed (and by whom) and supporting children to link to those services in order to promote desistance from (re)offending.

Panels are chaired and administered through YJA, and also include representatives from PSNI (normally YDOs), Social Services and Education. All partner organisations can make referrals and can take appropriate referrals from the panel, or provide the conduit between the

children and their family and other more appropriate services.

Referral criteria:

- Includes children who are involved in low level offending and/or anti-social behaviour;
- Should not include children already involved in, or about to be involved in, the formal justice system e.g. children subject to diversionary disposals and/or court orders; and
- May include children who have been subject to a Community Resolution Notice (CRN).

8. Sexual Offences

The Youth Diversion Scheme promotes the philosophy and use of a restorative approach in delivering Police diversionary disposals, however, where the offence is of a sexual nature it is not deemed appropriate to bring offenders face-to-face with their victims. The sensitivities and overall dynamics of such a meeting require a particular level of skills, experience and knowledge.

Trained facilitators, operating within the parameters of the Youth Diversion Scheme, will not undertake such a meeting. A Restorative Caution may still be delivered with the victim's views being expressed in an alternative way, where appropriate.

In practice, this means that delivery of an Informed Warning or Restorative Caution for a sexual offence will involve only the child, and the parent/guardian, along with the facilitator.

Where a sexual offence has been committed the facilitator should confine the content of the meeting to a brief exploration of the circumstances of the incident, the impact, and ensuring an understanding of the consequences. The investigation of such incidents may also have been very traumatic for the offender and their family. It is essential that nothing is done to increase that trauma. The trained facilitator may consult with the Public Protection Units (PPU), Rape Crime Units (RCU) and the appropriate personnel within the Health Trust, to be advised as to how to best manage the process. In some circumstances it may be beneficial for the Social Worker involved in the case to be

present when the Police diversionary disposal is delivered.

9. Bail and Biometric Data (DNA, Fingerprints)

Bail

A court may remand a person on bail to appear at a subsequent court. It may place conditions which that person must abide by, pending the next appearance. We know that children find it more difficult to adhere to certain bail conditions, such as curfew, and therefore are more likely to breach and be placed in custody.

It is vital that we prioritise our response to those children at greatest risk. For the reasons outlined above, particular consideration must be given to reducing the likelihood of a child being taken into custody, unless it is for their protection or in the public interest.

When Police are making an application for Bail in respect of a child (under 18 years) there should be a consideration for bail without conditions.

Where conditions are necessary they must be:

- Relevant to the offence or its commission;
- Proportionate;
- Realistic;
- Specific e.g. "to obey the rules of the Children's Home" is not specific as it is open to individual interpretation; and
- Easy for the child to understand.

The purpose of any bail conditions imposed on a child should try and support the child, by helping them to keep out of trouble and remain in the community. Consider the underlying causes of offending and mental health issues. Conditions must be explained to the young person in language which is appropriate to their age, maturity and understanding.

The Human Rights Act 1998 states that there should be a presumption in favour of granting bail, without conditions, for any person awaiting trial unless there are relevant and sufficient grounds to justify their continuing detention or restrictions while on bail.

[United Nations Convention on the Rights of the Child](#) Article 37 - children who break the law should not be treated cruelly, or put in prison with adults.

A 'Looked After' child should enjoy the same rights and be equally held to account as a Child who is living at home with his/her parents. Any condition added to bail, which is decided upon by the Police or courts, must be reasonable, achievable and relevant to the present offence. They must be no more onerous than is necessary and the Investigating Officer must take into account the young person's ability to comply with any condition being considered.

A 'Looked After' child should not be made subject to multiple or excessively stringent bail conditions that would not have been imposed upon a child who is not 'Looked After'. The best interests of the child should be a primary consideration in decision-making.

Breach of Bail

It is important that to protect the public and to maintain confidence in the criminal justice system, Police must take appropriate and proportionate action on

any detection or report of breach of bail conditions.

This is a discretionary power. As with any discretionary power, it must be exercised reasonably in all of the circumstances adhering to the principles of necessity and proportionality.

Factors to consider are:

- Seriousness of the breach;
- Danger to the public;
- Previous breaches; and
- Interference with evidence/witnesses, etc.

Where Officers encounter such breaches, and exercise their discretion not to arrest, they must inform the Investigating Officer of the circumstances on the OEL. The Investigating Officer will subsequently collate and forward details to PPS, to be brought to the attention of the court at the next appearance.

An arrest for breach of bail should be as a last resort, and any breach of bail should be a trigger for reconsideration of the conditions being imposed and of the level

of support being offered to help the child to adhere to bail.

Charging Policy

Considerations before charging a child

In deciding whether to charge a child under 18 years Police must consider the following factors:

- Serious consideration must be given to the necessity and proportionality of charging a child and to what we expect to achieve by charging. For example, it would be difficult to justify the proportionality of charging a child with a first offence, unless extremely serious in nature. Even where there is no admission of guilt the case/alleged offender may be eligible for referral to a Youth Engagement Clinic;
- In the case of a first offence of a minor nature, it is likely that a direction will be made by the court in favour of diversion. To charge in these circumstances, could potentially lead to delay in the processing of youth cases, and an adverse impact on the child due to the increased risk of reoffending before reaching their disposal; and

- Consideration must be given to the discharge of our responsibilities under Section 75 of the Northern Ireland Act 1998 and Article 3 of the United Nations Convention on the Rights of the Child – the principle of best interests of the child. ([See Youth Engagement Clinics above](#)).

In all cases involving children the supervisor must be consulted as to the evidential assessment and disposal options. The investigating Officer should also consult the YDO regarding the young person's background, disposal options and proposed action. The YDO may have knowledge of sensitive information pertaining to the young person or family that may not be evident to the investigating Officer. The YDO will also make a recommendation on the case file. If it is not possible to contact the YDO, checks should be carried out through CRV, NICHE and the Youth Diversion database. This will provide a fuller picture of the child's background, risk etc.

Youth Diversion Officers have in place an information sharing protocol with other statutory agencies with respect to youth offending, non-offence or risk behaviour.

Information provided by other statutory agencies can assist in the decision-making process by the PPS.

Fingerprints/DNA

Juvenile suspects should be fingerprinted and have DNA taken in all appropriate circumstances, and where there is a power to do so, e.g. under PACE, and those fingerprints submitted in accordance with current instructions. These are required to be taken even where a diversionary disposal is being considered.

10. Detention after Charge

Admitting a child to custody is intended as a last resort, for the shortest possible time, and should only be considered for children involved in the most serious and/or persistent offending behaviour. When considering utilising the Juvenile Justice Centre (JJC) as a place of safety, please consider how admission may cause a detrimental effect to the child and/or the loss of any future deterrent value if they are admitted.

If a parent or guardian refuses to provide accommodation, i.e. a suitable address for

service of a summons, or the child's return home presents a risk to themselves or others, the child may need to be detained in their own interests.

In these circumstances, Social Services must be contacted to arrange a suitable placement, and Police should assist as much as they can to find a suitable address.

Consideration must be given by all involved agencies to Article 3 of the United Nations Convention on the Rights of the Child which states that, in all actions concerning children, the best interests of the child shall be a primary consideration.

Statistics indicate that children in care are more likely to be admitted into custody than children in the community. If the return of a 'looked after child' to their Children's Home placement is not possible for good reason e.g. to protect an injured party from further assaults, each Trust should have in place a range of alternatives to accommodate him/her, for example:

- An alternative residential placement;
- Intensive support;
- Emergency foster care; or

- A temporary return to family or extended family.

Where a child is not looked after, and the Custody Officer believes them to be at risk of significant harm if they are released, they should consider taking the child into Police Protection under articles 18 & 65 of the Children (N.I.) Order 1995. (See [Article 18 Children \(NI\) Order 1995 Sharing Information and Understanding Needs](#)).

This section must be read in conjunction with the Child Protection Service Instruction. In order to reduce offending, it is important that the needs of vulnerable children are identified and assessed so that risk factors can be addressed through effective early intervention.

The 'Understanding the Needs of Children in Northern Ireland' assessment framework is an inter-agency assessment model which can assist in communicating the needs of children across agencies and aims:-

- To improve arrangements for safeguarding children by facilitating the sharing of appropriate information. This will enhance professional practice, multi-

disciplinary and inter-agency working and improve service provision to one of the most vulnerable groups in society. In many cases it is only when information from a number of sources is put together that a child can be seen to be in need or suffering or at risk of harm;

- To ensure the timely and effective exchange of information between agencies using UNOCINI guidance, Form 0 should be completed by the Designated Officer when the UNOCINI [Thresholds of Need Model](#) have not been met, and information in relation to risk or offending behaviour is to be shared in accordance with the Pressing Needs Test:
- To ensure the timely and effective processing of UNOCINI Form 1 referrals from PSNI to Social Services (Children's) in relation to those cases where the Threshold of Needs has been met where there are concerns for a child or unborn baby, and initial assessment is required to be undertaken by Social Services. In such circumstances a UNOCINI Referral is made by a Designated Officer using Form 1;

- To inform policy development with regard to safeguarding children and increase public confidence in this vital area of policing.

11. Consent to Share Information

As a general rule, seeking consent should always be considered and recorded, and only when it is in the public interest should an Officer go ahead without consent. When there is an overriding public interest, a practitioner may share confidential information without consent being provided e.g. in the case of offending behaviour.

There are a number of contexts in which a public interest might arise, including:

- To protect a child from harm as a consequence of maltreatment by others, or by his/ her own behaviour. An example of this would be children presenting with high risk and challenging behaviour, self-injurious behaviour, or suicidal ideation;
- To prevent offending, where observing confidentiality might undermine the prevention, detection or prosecution of a

crime; this is referred to as the 'Pressing Needs Test'; and/or

- To fulfil the duty under Section 5 of the Criminal Law Act (NI) 1967 to report information about a serious offence.

The reasons for not seeking consent should also be recorded. Crucial factors in deciding whether or not a public interest arises are proportionality and timeliness.

Proportionality is highly relevant as it prescribes the process by which Officers should evaluate the available information, weigh up the risks of sharing information against those of not sharing it and reach a reasonable judgement that the public interest is met.

There are often benefits and risks in the choice to share or withhold information – Evidence should be recorded that these have been assessed. It is therefore essential that the rationale is recorded and demonstrates that practitioners have exercised proportionality in their decision-making.

The sharing of information must be seen as merely the first step in facilitating the next

stages of analysing the information, assessing risks and taking appropriate action to safeguard the child or to ensure their welfare.

Where there is to be repeated data sharing with the same agency, an Information Sharing Agreement should be considered.

Please refer to Data Protection Act throughout this process.

Child in Need

[Art 17 of the Children \(NI\) Order 1995](#).

States a child shall be taken to be in need if:

- He/she is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision of services by an authority;
- His/her health or development is likely to be significantly impaired, or further impaired, without the provision of such services; or
- Children with a disability are also children in need.

Some issues may not, at least initially, fit neatly into the "in need" or child protection

categories, for example, where evidence of significant harm or the risk of significant harm to the child may not be immediately apparent, and an assessment is required by other Statutory agencies, to determine what services are necessary for the child and their family.

Where such information comes to the attention of Police the Investigating Officer must pass it to the Designated Officer, i.e. Youth Diversion Officer, who will:-

- Decide whether consent is required, from whom, and whether it is believed that this will promote the child's welfare e.g. by referral to another agency for support;
- Seek informed consent to share information with appropriate agencies by explaining both verbally and by the provision of written information e.g. YD2.letter to parent /guardian;
- Not share information with third party unless informed consent has been given or it is considered that a crime may be prevented, or may have been committed, or there is a risk of harm to an individual or to the public;

- Record the reasons for their decision; and
- Be alert to any changes in the family's circumstances which might cross the child protection threshold and require a different response.

In all circumstances the judgement must be made as to whether undue delay may intensify concerns about risk and through consultation the Officer must determine whether to proceed without consent. Such a decision requires be fully recording and communicating both verbally, and in writing, as soon as possible, to the child and family

Child Protection

In situations where an Officer believes that a child is subject to real and immediate threat of serious harm (e.g. of injury or sexual abuse), there is a positive obligation (under the Human Rights Act 1998) to take feasible operational steps to seek to protect the child from such harm.

Officers should consider what powers are available e.g. Article 65 of the Children

(Northern Ireland) Order 1995 or powers of arrest in relation to relevant suspects.

In such circumstances the local Social Services Gateway team or Out of Hours Service must be advised at the earliest opportunity, followed by a written UNOCINI Form 1 referral by the appropriate Designated Officer sent via Criminal Justice Secure Messaging.

Appendix A Aide Memoire

EXPLANATION TO BE PROVIDED TO A CHILD/YOUNG PERSON AND THEIR APPROPRIATE ADULT – PRIOR TO INTERVIEW FOR A SUSPECTED OFFENCE

It is essential that prior to interviewing a child/young person suspected of committing an offence in order to obtain evidence of an admission, that both that individual and their parent/guardian/appropriate adult, are provided sufficient information to allow them to make an informed decision as to whether to admit the offence in question or not.

Any person suspected of committing an offence and being interviewed with a view to securing evidence must be treated in accordance with the Police and Criminal Evidence (NI) Order (PACE) and the Codes of Practice. However, in addition to being informed of the rights accorded normally under PACE, the child/young person and their parent/guardian/appropriate adult, must be provided with information in relation to all potential outcomes, including the Youth Diversion Scheme, and Youth Conferencing should the case be proceeded with. It is the responsibility of the Investigating Officer to provide this information in the following terms. The form of words to be used will be read to the child or young person after they have been formally cautioned and prior to the interview proceeding.

‘ _____, you are to be interviewed in relation to your suspected involvement in the commission of an offence. In view of the fact you are a juvenile, this matter may be dealt with in a number of ways should there be sufficient evidence to proceed with the case. In certain circumstances the Public Prosecution Service are in a position to offer a number of different options including diversionary disposals. These diversionary options may only be given if you admit your involvement in the commission of this offence. However, even if you admit the offence, you may still be referred for prosecution through the courts.

The method of disposal will be decided once all the facts of your case have been considered, including any previous offending history you may have and the seriousness and gravity of the offence(s) involved. Consideration will also be given to any specific and relevant information provided to Police by

the Probation Service, Education Welfare Service, Health Trusts or the Youth Justice Agency (YJA), if you are, or have recently been engaged with any one or more of them.

All diversionary disposals are recorded on criminal record although none are a conviction. A prosecution may result in a conviction, which is recorded on criminal record. Diversionary outcomes are held on Police records - Informed Warning for 12 months; Restorative Caution, Youth Conference, and **prosecution** may be disclosed to a potential employer as part of a Vetting or Enhanced Criminal Record Check for 24 months and may be referred to in decision-making by Public Prosecution Service should you offend again. In the case of offences which are assessed as presenting a risk to vulnerable children or adults etc., they may be disclosed even after the retention time as part of a Vetting or Enhanced Criminal Record by a potential employer. All of the aforementioned disposals may be released to a court at any time in the future, if you offend again'.

Once read the I/O should ensure the content of the aide memoire is understood.

The I/O should also provide information to the child/young person, parent/guardian/appropriate adult, in relation to any other consequences should the disposal be a diversionary disposal, bearing in mind the nature of the offence, e.g. an offence of a sexual nature requiring notification under the Sex Offenders legislation

Appendix B - Contact Us

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Appendix C

Appendix D

Appendix E Contact Us

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