

**Joint Protocol Between;
Children & Young Peoples Services,
Nottinghamshire Police, Crown
Prosecution Service and
Nottingham City and County Youth
Offending Teams**

To assist in the determination of an effective and proportionate Police involvement if required in children's homes and semi independent placements. To prevent unnecessary criminalisation of children in care.

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Background

It is recognised that the vast majority of young people that enter the care system do not exhibit criminal behaviour and never become subject of police investigation. However, this group of young people are disproportionately represented in the Justice System and yet are society's most vulnerable children and young people.

This protocol is intended to provide guidance and support for decision making when a looked after child commits an act deemed inappropriate or criminal. It provides a structure to aid the level of response that should be made to address that behaviour.

The protocol and guidance takes due cognisance of the Crown Prosecution Services guidance "The CPS: Youth Offenders" , ACPO guidance on Out of Court Disposals and ACPO Children and Young People Strategy and OFSTED framework for inspection of Children's Homes 2015.

1. Introduction

It is anticipated that the standardised approaches and guidance contained within the protocol will act as a framework for ensuring and embedding good practice for working with looked after children.

The protocol aims to strike a balance between the rights and needs of the children and young people who are looked after, the victim, the rights of carers and the providers decisions to instigate Police action.

The fact that carers report an incident does not mean that the police must follow pre-determined course of action, or in some cases any action at all. Wherever possible, as defined in this protocol, the action to be taken will be determined following discussions by all concerned, including, wherever possible, the young person, and any victim.

Carers will need to use their judgement about where the threshold for reporting to the police lies particularly if the information to hand is slight and the crime or suspected crime, is of a minor nature. Guides have been produced to assist in decision making *(Appendix 1).

It is an expectation of this protocol that the police will provide a contact or local champion for carers as part of local policing arrangements.

Where ever possible regular liaison between local police and carers 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 and build relationships.

It is the intention of this protocol to provide guidance around the options available and to emphasise the importance of flexibility in determining the most suitable option for dealing with some of our most vulnerable children and young people.

Requirement for Police involvement.

The **nature** and **seriousness** of the incident should be considered before deciding whether to involve the Police immediately, at a later stage, or whether to involve them at all.

Communication between carers and the Police regarding the incident must be clear and factual.

Categories of Response

It is recognised that caring for and managing vulnerable young people with a range of difficulties or challenging behaviours is an integral feature of residential social care. Carers will generally manage problematic situations within the home except where they are so severe that immediate Police involvement is essential to avoid physical assault on any person or excessive damage.

The protocol identifies three categories:

- **Internal**-considered low risk-no police involvement
- **Non immediate**- considered medium risk-requires scheduled police support and advice about the way forward.
- **Immediate**- high risk- requires immediate police investigation.

“Internal” incidents-Low risk

It is anticipated that relatively minor incidents will be addressed using a range of informal approaches that can include, behaviour contracts. Sanctions and or / restorative approaches. These may also be dealt with within regular community or house meetings and addressed with all residents of the home.

“ Non-immediate”-Medium risk

Is an incident where a crime has been committed and no immediate Police response is required. For example, where an incident of theft , assault or damage has occurred and there is no risk of re-occurrence or significant harm, the incident should be reported to the Registered Manager who then records the discussion with a carer if appropriate.

Foster carers should inform the child/young person’s social worker at the first opportunity to discuss the way forward.

The victim’s wishes should always be considered.

Where police advice and support is needed the Registered Manager should contact the local Police control room to request a delayed or scheduled visit.

Carers must be clear about their expectations of the police when reporting a 'non immediate' incident. E.g. Do they just want support in a matter that has already been investigated informally by the carers or do they want the police to investigate the crime. **(See crime recording below)** This is vital with regards to how the police initially record the incident.

Police taking a call for service must establish the reason for the call as in the paragraph above to prevent unnecessary police investigation or criminalisation of young people.

The preferred policed response to crime will be, Community Resolution, Cautions and Conditional Cautions options (Out of Court Disposals) that are holistic. These are not part of an escalation process so allow the behaviour of the young person to be addressed without recourse to Court processes-

Carers need to be aware that all Out of Court Disposal methods mentioned in the previous paragraph do record a crime against an individual that can be released on Disclosure and Barring Scheme that could affect life chances later on.

“Immediate” - incidents High risk

Incidents of violence or behaviours requiring an *immediate* Police response where children/young people or carers are at risk of immediate serious physical harm or where there is a risk of substantial damage to property or risk of significant disorder within the Home. In such situations carers should utilise the 999 system.

Carers will need to ensure that reasonable steps are taken to retain articles or preserve the scene of a crime relevant to any criminal allegations or potential Police investigations.

Disclosures

Historic disclosures are considered 'serious' and should be reported through the police and social care systems at the earliest possible opportunity. However, they would not ordinarily require an immediate 999 response.

RECORDING

Recording incidents by carers

It is necessary for incidents to be accurately recorded to provide informed histories, assisting any assessments and liaison meetings.

All incidents must be recorded in the personal file for each young person and cross-referenced in the relevant log book.

The Home Office Counting Rules for Recorded Crime states the following:

“Whether to record - Except for offences dealt with by other agencies, any notifiable offence, which comes to the attention of the Police, should be recorded.

And

Offences dealt with by agencies other than the Police should not be recorded unless there has been a major contribution to the investigation by the Police,

“When to record – a crime should be recorded as soon as the decision to record has been made (or as soon as possible afterwards)”

To ensure compliance with the Home Office Counting Rules, offences that come to the notice of the Police must be recorded unless the matter has been dealt with by the other agency without a major contribution by the Police.

Therefore the requirement to record offences should be considered in conjunction with the desire to avoid unnecessary criminalisation of the young people in our care.

Recording of Internal incidents by carers

Incidents that are considered suitable for internal resolution by carers or other agency, shall not be recorded as crimes by the Police. However, the Registered Manager should record full details according to social care arrangements

Recording of non immediate ” incidents by the Police

Incidents, that are discussed by the police and Unit Manager at a scheduled meeting, need not be recorded as a crime related incident if the matter is being dealt with by the Unit Manager or other agency.

“Non immediate’incidents reported to the Unit Manager or foster carer, that are considered serious enough to warrant Police investigation rather than consultation, will be recorded as crimes, provided they meet the Home Office recording criteria.

Recording of “immediate ” incidents by the Police

Given the immediate response aspect of this category, offences that come to the notice of the attending officers would be of such a nature as to **require** recording, unless there are exceptional extenuating circumstances.

Prosecution requirements:- 10 point plan.

When processing a young person in care for prosecution the following 10 point check list must form part of the prosecution information- CPS will not pursue a prosecution without adherence to this process.

The Checklist provides the investigation with a tool to assess that all other forms of disposal have been exhausted and sufficient information is available to CPS for a charging or prosecution decision.

Carers must provide the police with information to support the 10 point plan. Which should be completed jointly with the police, social worker or carer.

1	Disciplinary Policy of Children’s Home? Has the jointly agreed guidance been followed?
2	Why have the police been involved and is it as agreed in the policy? Evidence of factors taken into consideration.
3	Any informal action/disciplinary action already taken? Historic information about sanctions around the same offence
4	Any apology/reparation?
5	Victim’s views? Eg is the victim supportive of a prosecution
6	Social Worker’s views?
7	Care Plan for Looked After Child? Is there a move imminent?
8	Recent behaviour/incidents re looked after child?
9	Information about incident from looked after child (interview or other)? What are the thoughts of the young person about the incident and their own behaviour.
10	Aggravating and Mitigating Features?

DECISION MAKING-

Factors to consider -These are in no particular order.

Consider:-

- Would a parent report such a matter to the police if it were in the child's own home?
- What does the victim really want?
- Reporting to the police does not automatically mean a prosecution but is likely to mean recording a crime against an individual.
- Severity of injury sustained/nature of threat received by victim.
- Potential impact on the child/young person following formal Police involvement.
- Future best interest of affected parties.
- Background of the child.
- Probability of a repeat incident.
- Previous relationship between victim and offender.
- Effectiveness of Police action/court proceedings- Can it be dealt with differently?
- Availability of alternative courses of action **with** consent of the victim, restorative approaches, informal sanctions –behaviour contracts.
- 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.- does this escalate the need for police involvement.
- Suitability and effectiveness of Police involvement
- Impact of Police involvement on the child's overall plan
- Referral to other agencies to address behaviour.

Other factors:-

Criminal Damage within the Home or to staff property

The majority of incidents currently reported to the Police involve damage to property within the young person's Home. It is important to see these in the context of the needs of the child and whether a police investigation is an effective and proportionate response.

Violence by a child or young person on 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 staff will need to ensure that internal Health and Safety reporting and Anti-Bullying procedures are followed.

Violence towards carers by a child or young person

Violence towards carers/residential care staff can vary from verbal threats to physical acts amounting to assault. Whilst each home has the responsibility of care toward the residents, and their staff everyone's welfare **must** be considered. Such incidents may be affected by factors similar to those listed above.

Where there is no immediate continuing threat of violence, it may be in the best interests of all to take time to discuss and consider possible options.

Following such incidents it is important that staff utilise standard debriefing processes and follow internal policies.

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.

- Requirement for formal investigation (e.g. Insurance claim requires a report within 24 hours)
- An internal response can still attract a crime number. Police crime recording management systems disposal code 20 – 'dealt with by other agency.'

Disorder in or around the Home

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

- The impact on the immediate community.
- The involvement of other agency e.g. Local Housing Officer, Outreach Youth Worker.
- Correct placement matching for the young people

Unwanted Visitors

To avoid unnecessary Police involvement where a home receives unwanted visitors the home will exclude the visitor. Notify them in writing to inform them that their visits are unwanted. They should then notify a police officer to enable a record to be made on police systems.

Substance Misuse

The misuse of controlled drugs within a Community Home is a serious issue and it is essential that the response is prompt and effective. In responding to incidents, carers 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.

Residential 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 residential staff should inform the Police if it 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 in a safe, if available, before handing to the Police at the local police station.

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, that includes:

- The time and date the material is placed in secure storage
- 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 signature of the person putting the article in to the storage countersigned by a second member of staff
- 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 Children's home any longer than is necessary it is important that every effort is made to ensure the Police attend at the earliest convenient time.

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

Care 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

Diversion and intervention for young people must be immediately addressed regarding substance misuse and Social Worker informed. **A referral to a drugs worker must be made by staff and social worker ASAP.**

Weapons

Where-ever possible and depending on risk, the weapon should be removed from the young person. Where a weapon is subject of a police investigation it should be stored securely before handing to the Police.

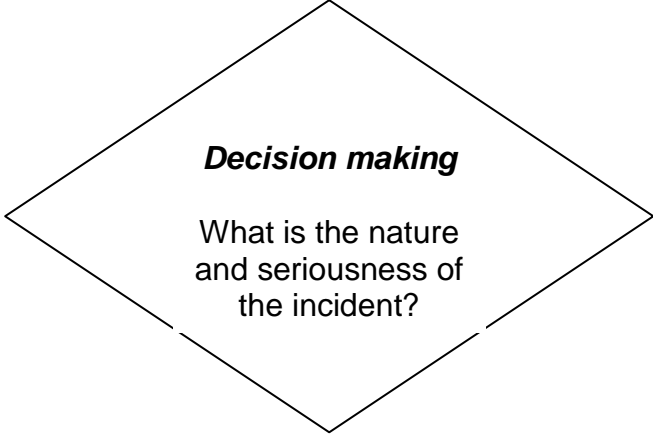
Where not subject of any police investigation these may be disposed of by staff or handed over for police disposal. However, where appropriate contact should be made with local police to ensure the information is recorded on police intelligence systems. The signature of the Police Officer removing any materials should be obtained.

Intelligence/data sharing

Safeguarding is everyone's responsibility. It is vital in the prevention of offending and criminalisation, and protection of vulnerable young people that agencies develop and maintain an environment of information sharing.

- Information about probation hostels where they are in the vicinity of Children's Homes.
- Areas identified as used by drug dealers in the locality of the home
- Sex offenders living in or near residential homes.
- Young people who are active criminals or believed to be criminally active
- Those young people identified as criminally active being monitored including recording their clothing, times in and out of the home
- Any property appearing without formal recognition or identification.
- Sharing information where young people are a risk to the community
Sharing information where young people may be at risk of CSE.
(Concerned Network meeting)
- Unwanted visitors

INCIDENT



Low risk
No Police Involvement

Internal Resolution

Med risk
Non immediate
Discussion with police

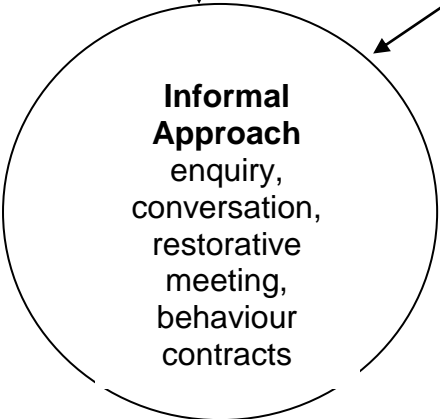
Police Consultation, Partnership approach

High risk
Immediate Police Response Required
(Unless historic disclosure)

Formal Investigation

If Charge-10 pt Plan

If deemed appropriate Court Process



Always consider TYS team referral/Lifeline referral etc.

Re-integration processes. Restorative approaches, mediation.

Monitoring the Protocol

To evaluate compliance with the protocol liaison should be held between the local Police Authority, Social Services Unit Managers, Placement Service Managers and Youth Offending Service.

Signed:

Dated:

Name:

For Nottinghamshire Police

Signed:

Dated:

Name:

For Home Managers

Signed:

Dated:

Name:

For Nottingham City Youth Offending Service

Signed:

Dated:

Name:

For Nottingham City Children's and Young Peoples Service

Signed:

Dated:

Name:

For Nottinghamshire Youth Offending Service

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For Nottinghamshire Children's and Young Peoples Service

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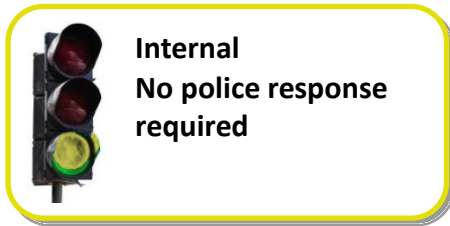
Name:

For Crown Prosecution Service Nottingham

Task/Implementation List;

Action	Complete	By Whom	When
All agencies sign off			
Training/awareness Children's Home staff			
Training/awareness Children's Home residents			
Training/awareness police Officers		Internal proceses	
Training/awareness Crown Prosecution service		Internal processes	
Regular Liaison		Police officers and care home	

Draft: What we can expect of each other



E.g. Testing boundaries, 'minor' damage



*E.g. No ongoing risk of harm.
Repeated / worsening behavior*



*E.g. Serious assault or damage where a
person / people are at risk of harm*

Action

- Carers manage situation, refer back to this agreement



- Informal restorative justice, agree sanctions/actions
- Record action
- Inform social worker / YOT worker if there is one
- Invitation to police to support internal actions, consider preventative support

Action

- Discuss behavior with Manager/Supervising Social Worker
- Record behaviour



- Discussion with the police (Beat manager PCSO, CiC Officer) and team around the young person
- Decision for police investigation, restorative justice or preventative work
- Record decision and outcome on young person's records

Action

- 999
- Once staff and young people are safe, record behavior and inform Social Worker/EDT and YOT worker if there is one



- **Police Investigation**

Charge to court: restorative justice will be considered as part of any sentence

No charge. Consider restorative justice or preventative work

Regular contact and meetings between carers and Neighbourhood Policing Teams to build relationships and communication

This shows the process that your carers will go through when thinking about how to respond if there is behaviour that needs to be challenged in your home, so that everyone can feel safe and supported. This process will be used in Nottingham City, in foster care, Local Authority and private homes so that everyone is treated in the same way.

Rights: Young people and carers have the right to;

- Be respected
- Feel safe
- For their belongings to be their own
- To have a voice and speak out

You are able to contact:

NYAS

Crimestoppers: 0800 555 111

Nottinghamshire Police: 101 or 999 in an emergency (if you or someone else is in danger)

Draft: Things to consider...

The following factors should be considered when deciding what action to take when there has been unacceptable behaviour by a child or young person.

The list is not exhaustive, and does not reflect any order of priority:

- Nature and seriousness of the allegation
- Severity of any injury/threat received by the victim
- Wishes and best interest of the victim
- Previous incidents of a similar nature by the same child or young person
- Does the response need escalating?
- Previous relationship between victim and offender
- Previous behaviour or offending, bullying/peer pressure/duress
- Probability of a repeat incident
- Potential impact of formal police involvement on the child / young person
- Views of carers, Social Worker and other professionals including health & YOT where appropriate
- View of Beat Manager or CiC Police Officer
- Appropriateness of police action / court proceedings
- Future best interest of all parties concerned
- Message sent to other young people / confidence in being able to report crimes and in knowing they may not result in court proceedings
- Availability of alternative courses of action, e.g. restorative approaches with the consent of the victim, referral to the Youth Offending Service
- Level / Value of damage caused
- Requirement for formal investigation, e.g. insurance claim requires a crime reference report
- Potential impact on the young person, the placement or home including staff and residents if the behaviour escalates or is repeated or the young person has previously displayed this behaviour.
- The availability of any diversionary activity
- Reparation ideas (work best where come from young people and linked to offence)
- Could include: Tidying up mess caused, helping to fix damage, sit down meeting, letter of apology, chores etc.

Draft: How do you feel now?

Where would you score what happened using the Signs of Safety scale and why?



**Internal
No police response**

**Signs of Safety
score 7-10 (No risk)**

E.g. Testing boundaries, 'minor' damage
Why?.....
.....
.....



**No immediate police
response**

**Signs of Safety
score 4-6**

*E.g. No ongoing risk of harm.
Repeated / worsening behavior*
Why?.....
.....
.....



Immediate response

**Signs of Safety score
1-3 (Most risk)**

*E.g. Serious assault or damage where
a person / people are at risk of harm*
Why?.....
.....
.....

Action

- Carers manage situation, refer back to this agreement

Action

- Discuss behavior with Manager/Supervising Social Worker
- Record behaviour

Action

- 999
- Once staff and young people are safe, record behavior and inform Social Worker/EDT and YOT worker if there is one

- Informal restorative justice, agree sanctions,
- Record action
- Inform social worker / YOT worker if there is one
- Invitation to police to support internal actions, consider preventative support

- Discussion with the police (Beat manager PCSO, CiC Officer) and team around the young person
- Decision for police investigation, restorative justice or preventative work
- Record decision and outcome on young person's records

- Police Investigation**

Charge to court: restorative justice will be considered as part of any sentence

No charge. Consider restorative justice or preventative work

Regular contact and meetings between carers and Neighbourhood Policing Teams to build relationships and communication

To the person/s harmed (if present):

harm/conflict:

What happened?

What were you thinking? Then? Now?

Now?

What has been the hardest thing for you?

What do you need to help repair the harm/
the harm/

To the person causing

What happened?

What were you thinking? Then?

How were you feeling? Then? Now?

What do you need to do to repair

resolve this conflict?

Resolve this conflict?

How do you think your community has been affected by your behaviour?

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Do you have any needs individual to you that we need to think about when we are making decisions about your behaviour?

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.....

How can you/we prevent this from happening in the future?

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.....

Do you need support from anyone else to do this?

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.....

Both share an example of when you (the young person) has done something nice/behaved well

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.....
.....

Actions

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.....
.....

Signed _____
Date *(Young Person)*

Signed _____
Date *(Worker)*

What happens if I get in trouble?

(This worksheet is aimed at young people over 13 years. It is a starting point to think about the consequences of offending behaviour as a young person and adult.)

Quiz

1) Is cannabis legal?

A: No, it is a Class B drug. Police can issue a warning or an on-the-spot fine of £90 if you're found with cannabis. The amount of drugs found and whether you have a criminal record will affect what happens if you are caught with cannabis. The penalty is likely to be more severe if you are found to be supplying or dealing drugs. Sharing drugs is also considered supplying.

2) What is the age that a young person can legally consent to sex with:

- A young person of the opposite sex?
- A young person of the same sex?

Follow up question – At what point before or during sex can a girl or boy say no?

A: 16 for both. Follow up question –A: At ANY point.

3) Is it ok to send a picture of your or someone else's private parts to someone else or post on social media?

A: No. This is a crime called Distribution of Indecent Images. A person can only give consent to share images of themselves with someone else at 18. This does not give the person receiving the image permission to share this with anyone else.

4) Which of these could be an 'offensive weapon'?

- a) Screwdriver
- b) Pen knife
- c) Meat cleaver

A: You would be committing an offence by carrying any of these items in a public place unless you have a good reason for carrying it i.e. for

5) What sentence should you expect for carrying an offensive weapon in public?

A: Your circumstances and those of the offence will be taken into account, but the 'starting point' for a young person would be a 4 month Detention and Training Order (custody).

Scenario: You are out with friends when an argument starts with someone on the street. Your friend threatens and hits the person, and then takes their phone. You don't hit anyone but are standing close by. **Have you committed an offence? What would you or could you have done?**

A: Robbery (joint enterprise)

What happens if I get in trouble over 18?

- You will not have an appropriate adult in police interview unless you have specific needs.
- You will go to the Magistrates Court (you may have to go to the Crown Court for later appearances if the offence is very serious). The public and the media are allowed in Court.
- Any Court Order will be supervised by the Probation Service.
- Probation will expect **you** to take responsibility for attending your appointments on time. You will usually be expected to attend office visits.
- If you fail to attend without an acceptable reason or evidence you should expect a consequence.
- Previous crimes or behaviour (including those as a young person) will be taken into account in your assessments about any risk of re-offending, to the public or your own vulnerability. However, this will consider your age, seriousness, and the circumstances at the time.
- If you have a history of breach, not attending Court or committing offences on bail you are at greater risk of being remanded to custody if you appear in Court for a serious offence. If you go to prison over 18 you will go to an adult prison.
- If you get in trouble as an adult, with an under 18, it would be assumed that you took the lead in any offence.

Things you need to know

- You have a right to free legal advice. If you get in trouble it is important that you take advice from a solicitor before interview at the Police station. Tell your carer or Personal Advisor so they can support you through this process.
- If you fail to attend an appointment Probation will normally give a first warning if you don't attend without good reason. Any further unacceptable failures to attend are likely to mean you going back to Court for them to reconsider your sentence.
- A criminal record can prevent you from going to other countries e.g America in the future. In some cases it can also prevent you, or make it more difficult, to get insurance or a bank account.
- Everyone makes mistakes. We can all learn from them. If you got in trouble as a child or young person, this **does not** mean to say you will carry on getting in trouble.
- Previous convictions can impact on housing applications. Make sure your Personal Advisor is aware of any convictions before any application is made,

so that you can discuss the situation and any concerns they may have in advance.

- If you are worried about your behaviour or what might happen in the future talk to your carer, Personal Advisor or someone else you trust about it.

Things I wish I'd known (quotes from Care-Leavers)

L.B *"I wish I had been told properly the consequences of how being in trouble will affect my future. Someone needs to be truthful and tell you how you get into a cycle and cannot get out of it. It's either offend and prison or not offend and be able to have your own place."*

D.B *" At 18 I think it should be all wiped off your record and you should be able to start afresh. I think young people need more things to do – boredom makes kids offend!"*

Finding out more....

- To find out more about what sentence you can get for an offence (as a young person or adult) and how these are worked out visit **sentencingcouncil.org.uk**. Look out for 'You be the Judge'.
- How would an employer feel about taking on someone with a criminal record? **Nacro.org.uk** and **unlock.org.uk** support with the ongoing effects of criminal convictions, provide advice on whether you need to tell a potential employer about previous convictions and on how best to do it.
- **Openjustice.gov.uk** 2015 provides more information on statistics, sentencing, and has interactive resources. For instance, for the amount of money offending costs the country, we could hold the London Olympics every year.

Notes/things I want to find out more about.....

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