

	<p align="center">Corporate Parenting Committee 5 February 2024</p>
	<p align="center">Report from the Corporate Director of Children and Young People</p>
	<p align="center">Cabinet Member for Children, Young People and Schools - Councillor Gwen Grahl</p>
<p align="center">Progress report: The London Protocol on Reducing Criminalisation of Looked After Children and Care Leavers</p>	

Wards Affected:	All
Key or Non-Key Decision:	N/A
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
List of Appendices:	N/A
Background Papers:	<p>Reducing Criminalisation of Looked After Children and Care Leavers - A protocol for London: The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers.</p> <p>The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers (publishing.service.gov.uk)</p>
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1.0 Executive Summary

- 1.1 The purpose of this report is to provide information and updates to the Corporate Parenting Committee about the London Protocol (The Protocol hereafter) on Reducing Criminalisation of Looked After Children and Care

Leavers, published in March 2021¹. Previous reports on reducing the criminalisation of looked after children and care leavers were presented to the Corporate Parenting Committee in April 2019 and January 2022.

- 1.2 This report provides a summary of the London Protocol and sets out Brent's current position regarding current practice and actions taken to reduce the criminalisation of children in care and care leavers. It contains evidence of services and approaches provided to looked after children and care leavers at a strategic and operational level.

2.0 Recommendation(s)

That the Committee:

- 2.1 Note the contents of the report and the progress made since the introduction of the London Protocol on reducing the criminalisation of looked after children and care leavers.
- 2.2 Advocate in support of the key principles set out within the London Protocol on behalf of looked after children and care leavers when exercising their duties as corporate parents.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

- 3.1.1 This area of work contributes to the following borough priorities:

- **The Best Start in Life**
- **Prosperity and Stability**
- **A Healthier Brent**
- **Thriving Communities**

4.0 Background

- 4.1 In November 2018, a national protocol on reducing unnecessary criminalisation of looked after children and care leavers was published by the Department for Education (DfE), Home Office and Ministry of Justice (MoJ). The protocol was the first national guidance aiming to tackle this issue. It provided a framework for local authority children's services, local care providers, youth offending services, the crown prosecution service, police, HM Courts and Tribunal Services and local health services. A Pan-London Protocol was published by the Mayor's Office for Policing and Crime (MOPAC) in March 2021 and sets out a framework for practice relevant to London.
- 4.2 The national protocol's key objectives and principles focused on a practice model that aimed to introduce preventative measures, reduce re-offending

¹ <https://www.london.gov.uk/mopac-publications-0/reducing-criminalisation-looked-after-children-and-care-leavers>

behaviour and rehabilitate young people who had offended through effective joint working between relevant agencies. The protocol highlighted the impact of previous trauma, attachment issues and specific vulnerabilities of looked after children and care leavers. All agencies were encouraged to use a trauma-informed approach to their practice. The Protocol recommends that restorative approaches should be used in a child-centred way to enable integrated, coordinated, and proactive responses to prevent and address challenging offending behaviour.

- 4.3 Care experienced children are up to six times more likely to be criminalised than other children. Just over half of care experienced children will have a criminal conviction by the age of 24 compared to just over a tenth of their non-care experienced peers of the same age. This over representation of children in care within the criminal justice system has been well documented in various national reviews such as '***In Care Out of Trouble***', an independent review by Lord Laming, published by the Prison Reform Trust in 2016 and '***The education background of looked after children who interact with the criminal justice system***', published by the Office for National Statistics (ONS) in 2022.
- 4.4 The criminalisation of any young person can be a barrier to the transition into adulthood and future life prospects. The life experiences of many looked after children and care leavers make them particularly vulnerable to involvement in the criminal justice system as does the context in which they live, residential children's, semi-independent providers or in foster care.
- 4.5 The London Protocol on reducing criminalisation of looked after children and care leavers sets out the overarching key principles to ensure that looked after children and care leavers are not unnecessarily criminalised, and encourages professionals to ask, 'would this be good enough for my child?'
- 4.6 Every effort should be made to avoid unnecessary criminalisation of looked after children and care leavers, including prevention activity. This is in recognition of the fact that looked-after children's experiences can contribute to behaviour that make them particularly vulnerable to involvement in the youth justice system, potentially effecting their future life prospects.

5.0 Brent's Approach

- 5.1 As of 31 December 2023 there were 314 looked after children and 470 care experienced young adults aged 18-25 open to the leaving care service. Multiple sources reference the poor outcomes of children who leave the care of local authorities compared to those who live with their families. These young adults tend to be living independently earlier than their peers, often at a distance from 'home' with less support and intersecting disadvantage. All children in Brent are allocated to social workers up to their 18th birthday. Young people leaving care post 18 are allocated to personal advisors who are professionals with experience of working with children and young people.
- 5.2 Young people who come into contact with the youth justice system are supported by the Brent Early Help managed, Youth Justice Service (YJS).

Although LAC are overrepresented in the UK youth justice system, the number of LAC children supervised by Brent YJS has halved in the three-year period between 2021 and 2023. It is difficult to identify a single contributing factor to this decrease, however it is notable that Brent Early Help established the Brent COVID-19 Pathfinder for Overrepresented Children in October 2020. This was a three-year preventative programme that provided emotional wellbeing, mentoring and other support to more than 450 children and young people from Black, Asian, and Minority Ethnic heritage groups that were ‘at-risk’ of entering the youth justice system. Furthermore, Brent Early Help invested heavily in trauma recovery, and anti-racist training between 2020 and 2023. This enhanced the ability of the YJS to deliver services to children and young people in accordance with *Child First* principles that recognise the needs, capacities, rights, and potential of children. It has also enabled the YJS to increasingly raise awareness among partners that structural barriers prevent many children and young people from participating fully.

	2021	2022	2023
No. of Brent LAC supported by Brent YJS	52	34	25

5.3 There are currently 9 Brent care leavers supported by Probation and 24 care leavers in prison which equates to 5.4% of Brent leaving care population.

5.4 There is a failure to achieve equal treatment for all children in the youth justice system in London and more broadly throughout the United Kingdom. In Brent, this is most pronounced for children and young people from Black Heritage Groups.

- In December 2023 forty-three percent of children in the Brent youth justice system are from Black Heritage Groups. This compares unfavourably when considering these children make up 24% of the total population – according to the 2021 Census.
- Asian children were proportionately the least represented: 14% known to the Brent Youth Justice Service (YJS) compared to 31% of the total population.
- White heritage children accounted for 29% of the YJS, compared to 24% of the total population.
- Seventy-one percent of the YJS cohort were from Black, Asian and Minority Ethnic Backgrounds compared to an overall child population of 76%.
- Young women made up 5% of the YJS cohort.

5.5 Ethnicity of Brent LAC and care leaver as at 31 March 2023:

Open and allocated LAC and Care leavers by ethnicity

Ethnicity	Number of LAC	Number of Care Leavers
ABAN -Bangladeshi	1	5
AIND -Indian	4	2
AOTH - Any other Asian background	34	48
APKN -Pakistani	6	8
BAFR -African	23	47
BCRB -Caribbean	27	42
BOTH -Any other Black background	44	58
MOTH -Any other Mixed background	38	31
MWAS -White and Asian	4	4
MWBA -White and Black African	1	3
MWBC -White and Black Caribbean	20	14
NOBT -Information not yet obtained	1	2
OOTH -Any other ethnic group	46	128
WBRI -White British	28	14
WIRI - White Irish	7	3
WIRT -Traveller of Irish Heritage	2	1
WOTH -Any other White background	32	28
WROM -Gypsy/Roma	1	0
Grand Total	319	438

5.6 Sixty percent of LAC who received youth justice disposals in 2023 were from Black Heritage groups:

2023	
Ethnicity	No. of LAC
Asian or Asian British	1
Black or Black British	15
Chinese or other ethnic group	1
Mixed	5
White	3
Total	25

5.7 As stated above there is disproportionate treatment for children in the youth justice system in London and more broadly throughout the United Kingdom, when in reference to racial background. In Brent, this is most pronounced for children and young people from Black heritage groups. The Brent YJS Disproportionality Action Plan 2024/25 has been created to understand the extent to which youth justice disposals are disproportionately served, and to monitor the progress and effectiveness of initiatives undertaken by YJS to support children from Black African and Black Caribbean heritage groups.

5.8 The YJS Management Board monitors Disproportionality Action Plan progress on a quarterly basis. It also identifies opportunities to build a coordinated multiagency response to youth justice inequalities. The Board's strategic

guidance and support enabled Brent to obtain funding from MOPAC to establish a 12-month *YJS Disproportionality Project*, aimed at tackling disproportionality within the youth justice system. There were essentially two components to the programme. The first of these was delivered by the Young Brent Foundation and sought to achieve systems change through the offer of cultural competency training to professionals. The other element, led by Early Help, consisted of supporting YJS young people from Black, Asian and Minority Ethnic Heritage groups to coproduce activities within Family Wellbeing Centres and make short films about their life experiences. The project ended in October 2023 (see also 5.15 below: *Other work undertaken to improve youth justice service outcomes for LAC*).

- 5.9 Ensuring looked-after children and care leavers have the right placements that meet their identified needs will significantly contribute to the prevention of criminalisation. It is recognised that caring for and managing children and young people with behaviour that can be perceived as difficult or challenging can be an integral feature of work within care placements.
- 5.10 Looked after children and care leavers interact with a whole range of agencies and professionals and it is important that all of them understand the reasons why looked after children and care leavers may behave in particular ways which are different to the universal population; key to this is their understanding of the impact of Adverse Childhood Experiences (ACEs) and trauma on children, young people and adults.
- 5.11 A key part of our approach is to raise awareness of why looked after children and care leavers need to be specifically considered when making decisions about involvement of the criminal justice system. Locally this has been and will continue to be done through a range of training options; face to face and virtual and building into current training packages the agreed approach for looked after children and care leavers as set out in this protocol and the reasons for that.
- 5.12 Challenging power imbalances occurs frequently in Brent. Examples include:
- Working with the Chair of the Willesden magistrates Youth Bench to identify if service improvements are needed to ensure children understand court processes and that their voice is heard.
 - Professional opinion, especially around issues such as undiagnosed mental health problems, is used to challenge disposal recommendations from the police where appropriate through the identification of mitigating factors. This often leads to children receiving a lower tariff disposal than initially recommended.
 - Enabling courts to see young offenders as children first and foremost. All Brent YJS court reports have been restructured so telling the story of the child appears prominently at the beginning of report. This enables the judiciary to see the story of the child prior to considering offence details.
 - A sustained period of ongoing volunteer recruitment has allowed YJS to draw from a younger and more diverse pool of Referral Order Panel volunteers.

5.13 In 2023 Brent CYP refreshed its Practice Framework in consultation with staff working across the department. The framework continues to support trauma informed approaches in recognition of the need to better understand and therefore respond to the needs of young people. The framework supports focused activity to improve practise with vulnerable adolescents and is evidenced through the following activity:

- a. The Contextual Safeguarding Strategic Group, chaired by the Director, Early Help and Social Care, reviews data and current trends with a view to identify strengths and areas for improvement. The group is held bi-monthly and operates as a platform for learning from practice, sharing information and strengthening collaboration and cooperation of partner agencies to better respond to the needs of adolescents with multiple vulnerabilities. Through the group Brent leads on a clear multi-agency approach to discuss services available for young people at risk of exploitation in Brent. This includes resources commissioned by Brent services as well as pan-London Projects applied locally.
- b. The Brent Youth Justice Service Management Board includes senior representation from Social Care (Localities, Looked After Children and Permanency services), the Police, Brent Probation Delivery Unit (PDU), Youth Justice Service (YJS), Early Help, Willesden Magistrates Court, NHS, and Public Health. In October 2021, the Board identified three actions (which are group supervision, Out of Court Disposal Decision Making Panel, and the LAC Children and Young People Transitioning to the Brent Probation Delivery Unit: see also 5.14) to ensure the responsibilities and good practice outlined in the *London Reducing Criminalisation of looked after children and care leavers protocol* were embedded within the Brent Youth justice System.
- c. The Contextual Safeguarding Lead together with a YJS manager, runs joint Contextual Safeguarding training for social care practitioners to broaden their understanding of 'harm outside of the home' and to reinforce the need to disrupt perpetrators, in addition to increasing safety for young people. To ensure that victims are treated as such, and not as criminals, continued training and development is taking place on a multi-agency basis to ensure partners are aware of the Home Office disruption toolkit, and that young people are being referred consistently through the National Referral Mechanism (NRM), and are able to use the s.45 defence (Modern Slavery Act) when they have clearly been a victim of criminal exploitation.
- d. The Contextual Safeguarding Lead chairs a Contextual Safeguarding Champions Group with partner agencies including Looked After Children team managers, Community Safety and YJS to look at trends within practice and explore opportunities for intervention across the borough. This includes a recent Location Assessment, designed to increase safety for young people within the Civic Centre as a prevention approach to reduce the possibility of criminal activity.

- e. In relation to high-risk young people, an escalation process is in place. Heads of Service provide a briefing to the Director of Early Help and Social Care in their statutory role. The DCS and Lead Member are provided with regular updates and briefings about these cases by the Director. These procedures for the recording and reporting of critical incidents internally also demonstrate adherence to Youth Justice Board serious incident requirements.
- f. The Exploitation, Violence and Vulnerability Panel (EVVP) which is jointly chaired by Brent Council services and the police, leads on operational planning and co-ordination work between partners, driving strong interventions in response to individual young people at risk of exploitation. Most of the young people who are referred have contact with the youth justice system and therefore the EVVP plays a key role in triggering interventions and resources to assist safety planning for young people. A transitional safeguarding plan is also being piloted and used across this forum to further increase safety for young people who are on the verge of adulthood and effectively plan for their support network post adulthood.
- g. A weekly operational meeting between CYP staff and the Police investigates individual cases of children who are missing from home or care – some of whom are at risk of or are engaged in criminal behaviours. Key themes from these discussions feed into the EVVP which brings about consistency of practice.

5.14 Well-established practice is in place when it comes to working between LAC and Care Leavers who come into contact with the Youth Justice Service. Some of the key examples are as follows:

Group supervision

Social Care and the Brent YJS work collaboratively whenever Looked After Children (LAC) enter, or are at risk of entering, the youth justice system. This was enhanced in January 2022 by the adoption of joint case supervision. These arrangements formalised existing good practice by regularising ongoing joint risk management and decision making. Practitioners from partner agencies including CAMHS and the PDU participate in group supervision whenever this is in the best interests of the child. Joint decision making and planning has increased our ability to ensure young people get the right interventions at the right time. Other benefits include children receiving consistent information from practitioners, multi-agency safety planning, and greater clarity surrounding the remit and responsibilities of services.

Out of Court Disposal Decision Making Panel

This weekly Panel is chaired by Brent YJS and attended by Police, Health, YJS, Social Care, Early Help staff and Restorative Justice workers to jointly consider and determine Out of Court Disposal (OCD) decisions. LAC Social Workers have attended the Panel since November 2021. This has strengthened our ability to take mitigating factors into consideration and identify appropriate interventions and disposal conditions. The effectiveness of our OCD decision

making is monitored by a Metropolitan Police led Multi-Agency Scrutiny Panel, comprised of senior representatives from the police, CPS, Judiciary, MOPAC and the YJB. The Scrutiny Panel audited six Brent OOC cases in November 2022, six cases in June 2023 and a further six cases in December 2023. Decision making in 17 out of 18 cases was adjudged to be correct. A further impact is that Social Workers are equipped with the information they need to explain OOC conditions to children in their care and support them to successfully comply with legal conditions.

LAC Children and Young People Transitioning to the Brent Probation Delivery Unit

Since December 2021, LAC Social Workers and Personal Advisors have contributed to all transition meetings between the YJS and PDU. This ensures that planning is as supportive as possible for LAC moving from the youth justice system to the adult criminal justice system. The adoption of this approach has improved support to LAC as the transitioning process is less technical and more child centred. The individual needs of young adults are central to transitioning and professionals work together to ensure LAC understand the differences between adolescent and criminal justice services, are less fearful about change, and are as prepared as possible to successfully complete their order.

5.15 Other work undertaken to improve youth justice service outcomes for LAC include:

- **Practice development sessions**

These are held regularly and includes themes of relevance to the overrepresentation of LAC children in the youth justice system including good youth participation techniques and understanding the impact of power imbalances and cultural differences when supporting children and young people.

- **Bail template letter**

Background information has been expanded to provide the courts with details of any discrimination or trauma LAC young people have experienced.

- **YJS case studies.**

These are shared at YJS Board meetings to explore how the needs of children have been considered and take forward learning for case work.

- **Magistrates training.**

As part of its contribution to the Willesden Magistrates Court Users Forum, Brent has delivered good practice sessions including understanding the impact of trauma on a child's behaviour in court and anti-racism training.

- **Child first approaches.**

Relationship building, coproduced intervention plans, listening to children, participation work and annual surveys are used to inform practice and achieve good outcomes for children and young people.

- **Collaborative culture in CYP**

Social Care and YJS work together every day in a range of ways including joined up planning undertaken at complex strategy meetings, at risk of custody meetings, and preparing bail packages. As well as joining together in joint case supervision sessions for high-risk young people.

- **Your Choice**

The Your Choice programme provides training in Cognitive Behavioural Therapy (CBT) techniques to practitioners working with young people (aged 11-17 years) at medium to high risk of harm. The CBT technique is used during the delivery of interventions and professional interactions with Your Choice participants. To date this programme has been offered within the Accelerated Support team (AST), the YJS and has recently begun in the Looked After Children and Permanency Service (LAC). Twenty-two practitioners from LAC and YJS have been trained to deliver CBT techniques. The YJS Your Choice Project Lead meets regularly with LAC and YJS staff to facilitate the allocation of cases. In partnership with voluntary sector colleagues from PLIAS, St Giles and EACH, three Your Choice sessions are delivered each week. Two of the current seven Your Choice participants are children in care, with this number expected to grow. Six of these children are from Black Asian and Minority Ethnic Heritage Groups, and one was from an Asian Heritage Group.

- Actions identified as part of the **Brent YJS Management Board review of *London Reducing Criminalisation of looked after children and care leavers protocol***, (see 5.14 above) are included in the **Brent YJS Improvement Plan 2023/24**. Progress is monitored quarterly by the Brent YJS Management Board.
- *The revised approach to supporting children transitioning to adult services has been formalised in **The Joint working protocol between Brent Youth Offending Team and The Probation Service** (Brent Probation Delivery Unit PDU)*. Created in May 2022, the Protocol outlines the operational procedures and standards required when transferring supervision from the YJS to Brent PS.

5.16 Work undertaken to embed the *London Reducing Criminalisation of looked after children and care leavers protocol* in Brent was reviewed at the YJS Management Board on 20 July 2023. Members noted that the impact of all three of the initial workstreams (group supervision, OOCs, and transitioning to PDU) had been positive. The Board identified a new set of actions that builds upon the progress already made.

- a. Explore new opportunities to achieve good outcomes for LAC children through ever closer working between the Looked After Children and Permanency Service and YJS.
- b. Promote the Brent YJS restorative justice offer to care homes and foster carers. This is currently offered to all victims of crime and will be extended to carers and key workers as a non-criminal remedy. The initiative seeks to avoid criminal prosecutions by raising awareness that restorative justice is an effective alternative to informing the police about low level incidents in many instances.

- c. Ensure that the work we are doing to tackle the over representation of children and young people from Black Heritage Groups includes a specific focus on Looked After Children.
- d. Further develop our work with placement providers and foster carers. This will include supporting them to identify and share information about children who are at risk of going missing in line with the Philomena Protocols.
- e. Strive to find solutions to the challenges associated with placing young people in suitable accommodation where they are free from contextual safeguarding harm and near enough to avoid disrupting their education and relationships with families and positive friends.
- f. Continue to educate partners and stakeholders about their responsibilities under the London Reducing Criminalisation of looked after children and care leavers protocol.
- g. Ensure youth participation work captures the voice of LAC children supported by YJS. This will include creating opportunities to use film and other media to raise awareness across the youth justice system.
- h. Support MOPAC to evaluate the impact of the *London Reducing Criminalisation of looked after children and care leavers protocol*. This will include adopting new and emerging developments from the Reducing Criminalisation of looked after children and care leavers working group that facilitate practitioner surveys and dip sampling care setting incident reports.
- i. Expand the range of diversionary activities and preventative services available to LAC children and young people working closely with community and voluntary sector partners to increase LAC access to existing early intervention initiatives that seek to prevent children and young people from entering the youth justice system.

5.17 Priorities over the next 6-12 months include:

- a. Accommodation Provider forums to explore how we can together aim to reduce criminalisation of LAC and care leavers by ensuring staff/carer responses to behavioural difficulties which may be viewed as criminal, are proportionate and appropriate and the need for police involvement and /or court action is minimised.
- b. Training to be provided to foster carers that focus on de-escalation when working with young people presenting behavioural difficulties.
- c. Training for Personal Advisors on providing advocacy when supporting young people in prison.
- d. A joint LACP and YJS staff forum to:

- Continue to develop awareness of the London Protocol.
- Explore ways of supporting young people which will result in less re-offending when they have been convicted of an offence or if they have received an out of court disposal.

The impact of this work would be the continued reduction of looked after children known to YJS and a reduction of care leavers known to Probation or in prison. Other benefits will include greater confidence and awareness in foster carers and placement provider staff in managing at risk young people, greater placement stability for this harder to place cohort, greater confidence in staff advocating for young people at risk of criminalisation.

6.0 Financial Considerations

6.1 There are currently no financial considerations arising from this report.

7.0 Legal Considerations

7.1 Schedule 2 of the Children Act 1989 requires local authorities to take reasonable steps to reduce the need to bring criminal proceedings against children in their area and to encourage children within their area not to commit criminal offences.

8.0 Equality, Diversity & Inclusion (EDI) Considerations

8.1 By adopting the principles outlined in The Protocol, we are recognising and addressing the vulnerabilities and disadvantage experienced by care experienced young people, ensuring better overall outcomes.

9.0 Climate Change and Environmental Considerations

9.1 There are no climate change or environmental considerations.

10.0 Human Resources/Property Considerations (if appropriate)

10.1 There are no human resource or property considerations.

11.0 Communication Considerations

11.1 At this stage there are not any communication considerations.

Report sign off:

Nigel Chapman

Corporate Director of Children and Young People