

REPRESENTING CARE EXPERIENCED CHILDREN & YOUNG PEOPLE IN POLICE CUSTODY: SUMMARY OF GOOD PRACTICE PRINCIPLES FOR SOLICITORS

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UNDERSTANDING THE FACTORS THAT CONTRIBUTE TO THE CRIMINALISATION OF CHILDREN WHO ARE CARE EXPERIENCED AND ENSURING THEIR RIGHTS ARE UPHELD CAN HELP SOLICITORS TO PROVIDE THE BEST SUPPORT AND ADVOCACY AT THE POLICE STATION.

PRINCIPLE 1: GATHER KNOWLEDGE

The solicitor, whether allocated or on a duty basis, should attend the police station as soon as possible to speak to the child. It is in the best interest of the child to ensure everything is done to speed up the process. If the child does not have a responsible adult with them, contact the child's social worker/ carer to gain as much information as possible regarding the child's individual circumstances.

PRINCIPLE 2: REVIEW THE DECISION TO HOLD THE CHILD IN CUSTODY

Children should only be kept in custody as a last resort (UNCRC). Seek to prevent any child being held in custody longer than assessed as necessary by making representations to the duty officer. Children with care experience can often spend longer in police custody. Solicitors can assist in reducing the length of time spent in custody by making early enquiries with the responsible adult present, social worker, carer or children's house regarding where they will stay upon release.

PRINCIPLE 3: EFFECTIVE COMMUNICATION WITH YOUR CLIENT

It is essential that the solicitor is able to communicate effectively with children so they are able to understand what is happening to them. Clear simple language, not legal jargon should be used and time/space for children to process and respond should be given. Solicitors should check the child's understanding throughout as children need to understand and feel that they are central in all proceedings about them. Many children in the justice system will have speech, language and communication difficulties, which hinders their understanding and participation in the process. Asking and **checking their understanding** and using simple language will help them.

PRINCIPLE 4: ESTABLISH RAPPORT AND TRUST

It is essential to establish rapport with the child and to gain their trust. This can be very difficult to do quickly at the police station and could be particularly challenging with a care experienced child who may have a history of having been let down and/or rejected by adults. Let children know you are on their side. Do not be put off if children appear unfriendly or do not seem to care. Children with care experience, in particular, may be adept at hiding emotions such as anxiety or fear under a front of bravado.

PRINCIPLE 5: ADVOCATING FOR CHILDREN'S BASIC RIGHTS AND ENTITLEMENTS

Children sometimes commit the most serious and harmful offences, but as difficult as it can be, it is important to remember that they are still children who most likely have experienced abuse and neglect themselves, and are still **rights-holders**. Check that children are aware of their rights, that they have seen and understand the rights, and advocate on their behalf where necessary to ensure that their rights are respected and needs are met. This includes their wellbeing, conditions of their detention and rights regarding stripsearching. Provide regular updates and reassurance of your involvement.

PRINCIPLE 6: INTERVIEW CONSIDERATIONS

Fitness for interview is an important issue for children with care experience because of the prevalence of additional support needs and for many children, issues with poor mental health. The length of time some children are detained for should also be considered and additional breaks requested if required.

PRINCIPLE 7: CONSIDER WHETHER THE CHILD IS A VICTIM OF EXPLOITATION

Always consider if the child who has been suspected of committing a crime may themselves have been subject to **exploitation or manipulation** by adults or other children. Be mindful of the safest and most appropriate way of the child being interviewed by the police. (**Scottish Government, 2011**).

PRINCIPLE 8: MAKE REPRESENTATIONS TO THE PF AND/OR POLICE

Consider making representations both orally and in writing to the police/PF to take into account the welfare, any specific circumstances/needs and 'best interests' of the child in their decision making.

PRINCIPLE 9: MAKE SURE CHILDREN RECEIVE COMMUNITY-BASED SUPPORT

Children with care experience who come into contact with the criminal justice system are likely to have a range of additional support needs. If you become aware of specific issues that the child requires support with, alert the child's social worker/home local authority to your concerns.

This guidance is part of 'Representing care experienced children & young people in police custody: A good practice guide', which brings together advice, research and guidance, aimed at criminal solicitors, practitioners and children and young people. Produced in collaboration with CYCJ and the Scottish Child Law Centre, the guide is based on a paper from the Howard League for Penal Reform, the Youth Justice Legal Centre, and includes inputs from Youth Just Us and Scottish solicitors.

This includes a flyer that has been co-produced with young people for care experienced children in police custody which can be printed out and given to any child you are representing.

Access it at www.cycj.org.uk/resource/good-practice-guide and www.sclc.org.uk

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