



Scenario



Children in conflict with the law, both under 12 and over 12

Police Scotland staff on making a referral to the reporter



Reporter:

You wanted to talk about a child whose behaviour has been reported to you in your role as a Youth Justice Assessor.

Police Officer:

Yes, it's about Adam who is 14. Adam has been charged with an assault. He assaulted another 14 year old boy. Adam is known to us having come to our attention on 2 previous occasions. Those offences were relatively minor, public disorder offences. We didn't refer those and Adam was given a warning after the second one.

I was wondering about the right approach to deciding whether to refer this one or not.

We're fairly sure there's enough evidence.



There is a statement from the victim and another from someone who lives nearby the locus, heard a disturbance and looked out of the window. That witness gives a description of a person they saw assaulting the victim – what he was wearing and general appearance.

Reporter:

Well, if you consider there to be the possibility of sufficient evidence then you can refer. At the end of the day it's a matter for the reporter to assess the evidence.

Otherwise, it's a matter of applying the usual statutory criteria, meaning you have to ask yourself 2 questions: is there a need for protection, guidance, treatment or control AND might a CSO be necessary?

The Guide to Referral to the Children's Reporter has some very useful questions – set out in Appendix 3 – that will help you tease out your responses to these questions. Thinking about the guidance, some key questions seem particularly relevant here.

Firstly, thinking about the circumstances – in this case the circumstances to do with the assault itself - how serious is your concern for Adam? The more serious your concern, the more likely that you should consider a referral to be.

Police:

It was quite a nasty assault, seems pre-planned – he searched for this boy and punched and kicked him on the face and head. The boy was very badly bruised. The assault took place at 0100 hours in the morning. The incident raises serious concerns for me.



Reporter:

Were there any other circumstances that you thought were relevant?

Police:

Yeah. When we attended at the family home and arrested Adam he was not in the least remorseful. It seemed clear to the attending officers that his response was more than just youthful bravado. He suggested that the victim deserved what he got. They also report that his parents seemed unconcerned about the assault.

Reporter:

Well, looking again at the types of issue identified in the Guide to Referral, that information is relevant to your assessment of something highlighted there: Is there anything which might indicate a willingness and ability to change?

Police:

The child and family's responses don't suggest that they accept that the offence is much of an issue. So, no.

Reporter:

Do you have any more information?

Police:

No, but a meeting – an Early and Effective Intervention meeting – has been set up. There might be more information on the table at that. Should a meeting being arranged have an impact on whether we refer Adam or not?



Reporter:

That's really a matter for you. The Guide makes a very important point - is working together with a child and family on a consensual basis going to be enough to meet the child's needs, or is likely to do so. That links to the criteria for referral – is there a need for protection, guidance, treatment or control AND might a CSO be necessary?

So, if the discussion at the meeting indicates that a plan can be put together to address the concerns there are for Adam then that may have an impact on whether it's felt a referral is necessary.

However, it is ultimately up to each agency to decide if they should make a referral. If you consider the criteria for making a referral are met, you must make it. And it's important to realise – and this is reflected in EEI guidance – that even if a plan is devised at a multi-agency discussion, attempting voluntary intervention AND making a referral are not mutually exclusive.

So, thinking about the information you have at the moment, and turning to the first part of the referral criteria, do you think Adam needs protection, guidance, treatment or control?

Police:

Yes he does. Guidance certainly.

Reporter:

... and do you think that a CSO might be necessary.



Police:

I do. His response – and that of his parents - indicates that the concerns that need addressing may not be addressed without some type of compulsory intervention.

So, I think I will be referring Adam.

Reporter:

Okay, that seems reasonable. While I've got you, can I check something with you.

Police:

Of course

Reporter:

What about a situation similar to this one but where the child, let's call him Robert, behaved in a similar way to Adam but where Robert is 10 years old.

Police:

Well, the first thing to point out is that as we couldn't charge Robert - he's under the age of criminal responsibility – information about Robert probably wouldn't come to me as a Youth Justice Assessor, or at least wouldn't in the Division I work in. However, I think that the concerns for Robert would be at least just as significant as for Adam. Even though we wouldn't be dealing with an incident like this as an offence, we would still want to question Robert about his behaviour.



It's difficult to say much more given the lack of information about Robert or about what any investigation might reveal. However there is a high probability that a referral would be made in a case like this. We wouldn't be submitting the referral by forwarding a Standard Prosecution Report – an SPR2 – we would forward all relevant information in a Child Concern Report from the interim Vulnerable Person Database (iVPD).

