

## **SECURE ACCOMMODATION POLICY AND PROCEDURES. APPLICATIONS UNDER S.25 CHILDREN ACT 1989 HARROW COUNCIL**

### **1. INTRODUCTION**

**1.1** Secure Accommodation is the most restrictive option when considering where best to keep Children and Young People who are looked after safe.

**1.2** It is essential that any decision taken to place a child or young person in such accommodation should be taken carefully and with all available information considered, evaluated and risk assessed. This decision will then be presented to the Courts.

**1.3** This policy will explain this process in detail as a means of ensuring the needs of the child or young person are given paramount consideration when decisions are taken to restrict their liberty.

**1.4** Given the complex nature and different routes to secure accommodation Harrow will, as other Local Authorities, ensure that the responsibility for the review of secure placements rest with Senior Officers

### **2. PURPOSE OF THE POLICY**

**2.1** The purpose of this policy is to describe the processes by which a young person can be kept in secure accommodation.

### **3. LEGAL CONTEXT**

**3.1** There are a number of routes whereby this may occur. They are:

- Applications under s.25 Children Act 1989
- Court Ordered Secure Remand s.23 Children and Young Persons Act 1969
- Detention and Training Orders (s.100 Powers of Criminal Courts (Sentencing) Act 2000) Court must refer to s.79 of same act when considering Detention and Training orders as an option.
- Sentenced under s.90-91 Powers of Criminal Courts (Sentencing) Act 2000 (Grave Offences and Murder)
- S.38 Police and Criminal Evidence Act 1989

### **4. APPLICATIONS UNDER S.25 CHILDREN ACT 1989** (Applications are heard in the Family Proceedings Court)

**4.1** S.25 states:

‘a child who is being looked after by a Local Authority may not be placed and if placed, may not be kept, in accommodation provided for the purpose of restricting liberty unless it appears that:

- (a) He has a history of absconding and is likely to abscond from any other description of accommodation and
- ii. If he absconds he is likely to suffer significant harm
- or
- (b) That if he is kept in any other description of accommodation he is likely to injure himself or other persons.

## **PROCEDURE**

**4.2** Consultation with the Service Manager and Head of service to consider whether the criteria under s.25 Children Act 1989 are met. If agreed that these criteria apply a Secure Accommodation Planning Meeting should be convened.

**4.3** The Secure Accommodation Planning Meeting should include:

- Head of Service
- Service Manager
- Legal Representative
- Social Worker
- Social Worker's Line Manager
- Independent Reviewing Officer or Manager
- Child's Carer (if appropriate)

**4.4** This meeting should discuss

- The child's history and placement experiences.
- Evaluation of what has and has not worked to keep the young person safe
- Whether all other options have been explored fully
- How placing the child or young person in secure accommodation will improve the outcomes for the child or young person.
- The child's current situation in order to establish if the criteria for making a secure order are met.
- What the purpose of applying for a secure accommodation order is in relation to the overall care plan for the child.
- The views of the child, carers, adults with parental responsibility, any advocate, IRO and any other significant persons.
- Consideration as to whether Harrow will make an application to the Court for a Care Order
- What the child's exit plan from secure accommodation would be should the Court make the order
- The criteria for Secure under s.25 Children Act 1989 and whether they are met in this instance

**4.5** The final decision for applying for a secure accommodation order rests with the Corporate Director of Children Services or in his/her absence the Director of Schools and Children's Development. Once authorisation has been provided a referral is required to the Placement Officer to identify a suitable placement

**4.6** The social worker, with guidance from Legal Services will write a statement for Court outlining the history of the child and the reasons why a secure accommodation order is necessary.

**4.7** The Local Authority will then be responsible for transporting the child/young person to the receiving secure unit and ensuring all necessary documentation accompanies the child.

**4.8** The receiving unit will require a copy of the Court Order authorising secure accommodation and all relevant LAC documentation as would accompany a child to any other care provision.

**4.9** It is essential to forward all documentation approving the use of secure accommodation to the identified unit. If this has not been received by the unit prior to the young person being admitted the secure unit will not admit the child.

### **72-HOUR RULE (THE GROUNDS FOR APPLYING THIS RULE MUST FALL WITHIN S.25 CHILDREN ACT 1989)**

**5.1** A child can be placed in secure accommodation for 72 hours should it be considered necessary to act immediately to protect the child/young person from risk of significant harm.

### **PROCEDURE**

**5.2** Should the application of the 72-hour rule be considered relevant Legal Services must be notified immediately in order to confirm that the criteria apply.

**5.3** A Secure Accommodation Planning Meeting as described in 4.2 - 4.4 should be convened as soon as is practicable after the decision to place a child in secure accommodation under the 72-hour rule. This must be done within sufficient time as to allow parent(s), carer(s) and child to be notified and offered the opportunity to express their views in relation to the application. If the child is supervised by YOT, the responsible officer should also be invited to the meeting.

**5.4** Only the Corporate Director of Children's Services, or in his/her absence, the Director of Schools and Children's' Development can give permission for a child to be detained in secure accommodation under the 72 hours rule

**5.5** The Secure Unit will require written confirmation of this decision before they will agree to admit the child.

**5.6** It is unlikely that any unit will agree to admit a child without there being an explicit understanding of the Local Authority's intention to apply for a formal order in the Family Proceedings Court.

**5.7** The Court will expect the child to attend the Secure Accommodation Hearing if it is deemed to be in their best interests to do so and will seek their views directly, in addition to hearing from the Child's guardian.

**5.8** The 72-hour rule can only extend for 72 hours consecutively or in aggregate in any period of 28 consecutive days.

**5.9.** Unless a child or young person who is placed in secure accommodation is subject to a care order they are accommodated by the local authority. This applies whether the young person is placed in secure accommodation following an application to court by the local authority, or is remanded to secure accommodation by the court as part of criminal proceedings.

Where an application is made to place a young person who has attained the age of sixteen and who is accommodated under Section 20 in a secure placement, an interim care order must be applied for first to support the secure application.

## **AGE OF CHILD**

**6.1** Secretary of State (DCSF) approval will be required before any child/young person under 13 can be admitted under the 72-hour rule and include consultation with CSCI. This can only be done at Service Manager level and above.

### **PRACTICE GUIDANCE:**

Ideally a Secure Accommodation Planning meeting should be convened prior to any placement in secure accommodation, however it is accepted that there may be rare occasions where this is not possible.

Contact details for DCSF:

CIC Division

DCSF

0207 2735905

0207 273 5897

0207 9723000 (out of hours number ask for CIC Division Duty Officer))

**6.2** DCSF approval will only be required on the initial application, or if there has been a break in placement.

**6.3** If the child is accommodated under s.20 Children Act 1989 any person with parental responsibility can remove the child from secure accommodation at any time.

**6.4** If the child is accommodated under s.20 Children Act 1989 the child/young person can elect to leave secure accommodation upon reaching their 16<sup>th</sup> birthday.

**6.5** DCSF will consult with Ofsted prior to granting their approval for a secure application to be made. DCSF will then notify the Local Authority with their decision

**6.6** The receiving unit will request evidence that this permission for placement has been sought from the child's parent(s) and/or persons holding Parental Responsibility.

## **PROCEDURE ONCE CHILD HAS BEEN ADMITTED UNDER S.25 CHILDREN ACT.**

**7.1** The maximum length of the initial secure accommodation order is 3 months. However they are more likely to grant an interim order for a shorter period. The maximum order thereafter is 6 months.

**7.2** It is the Local Authority responsibility to ensure that the eligibility criteria for securing the child/young person exist and that this is reviewed regularly.

**7.3** A secure accommodation order is a permissive order. Therefore if the child is considered, at any point, within the period defined by the order, to no longer meet the eligibility criteria, the child must be released immediately.

## **PLANNING PROCEDURE**

**7.4** A placement in secure accommodation is managed as under looked after child regulations so CLA documentation must be completed as in any other care setting.

**7.5** Within 5 days of the placement a Planning Meeting must be held in the Secure Unit to establish the Care Plan for the child/young person

**7.6** The Social Worker must arrange this meeting in consultation with the Secure Unit in order to ensure the required personnel are available. This would include:

- Child
- Parent or person with Parental Responsibility
- Unit Key worker

- Secure Unit Manager
- Education Representative
- Child's Guardian
- CLA Nurse
- Representative from Secure Unit's Therapeutic Support (where appropriate)
- YOT worker if appropriate

**7.7** The Planning meeting will be chaired by the relevant Service Manager.

## **SECURE ACCOMMODATION REVIEW**

**8.1** A panel will need to be established in respect of every secure placement in order to consider the criteria for placing that child within secure accommodation.

**8.2.** The regulations state that the placing authority is required to appoint a minimum of three people to any Secure Accommodation Review Panel. They also require that there must be at least one independent member of the Secure Accommodation Review Panel who is neither a member nor an officer of the Local Authority.

The regulations do not state who the other members of the panel should be, but it is nationally accepted good practice that they should not be people who have had direct involvement in managing the case and that issues of ethnic background and gender should be considered, if practicable, in deciding the make up of the panel.

**8.3.** The regulations also do not set requirements for the appointment of the Chair. However, it is nationally accepted good practice that an experienced senior manager, independent of the case should chair a Secure Accommodation Review Panel. This may be an Independent Reviewing Officer or Manager. It may also be a Senior Manager employed by the Local Authority who has extensive knowledge of childcare issues but is not part of the line management of the case.

With the introduction of the Independent Reviewing Officers, and an expectation that they monitor the performance of the Local Authority's functions in relation to the child's case it is now good practice that they are one of the Panel Members.

**8.4.** Given the complexities of such reviews it is of the utmost importance that the Panel Members are experienced and practiced in the area of childcare. The recommended membership is therefore:

- Senior Manager who does not have line management responsibility (Chair)
- Independent Person who has experience of representing the views of children who are looked after. The Independent Person will arrange to see the young person prior to the review

- Independent Reviewing Officer or Manager

A legal representative should make himself or herself available by telephone for consultation as required.

**8.5.** The Children's Safeguarding and Reviewing Unit will organise the Secure Accommodation Review Panel. However it is the responsibility of the social worker to notify the Children's Safeguarding and Reviewing Unit that a review panel is required.

**8.6.** The purpose of this meeting is to review the criteria for placing the child/young person in secure accommodation, in particular to ascertain if:

- The criteria for keeping a child in secure accommodation continue to apply
- Any other description of accommodation would be appropriate but in doing so having regard to the welfare of the child whose case is being reviewed.

**8.7.** The first review panel of the child's placement in secure accommodation must take place within one month of the placement starting and then at intervals not exceeding 3 months.

**8.8.** This is in addition to the CLA processes, which must also occur in this setting such as Placement Planning Meetings, Statutory Reviews and ensuring the child is visited as a minimum within the statutory guidelines

**8.9** The child/young person's social worker should attend the panel, with:

- The relevant Service Manager and Team Manager
- The child
- Parents and those with parental responsibility. An interpreter if necessary
- Representative from the Secure Unit
- Independent Visitor (if one has been appointed)
- The Educational Psychologist (if the young person has a statement of special educational needs)
- Other members of staff able to offer specialist advice on issues of race, culture language or disability
- Other significant people, as appropriate
- The IRO, if available

**Only the Chair and/or the IRO Manager can authorise any non-attendance by the above**

**8.10.** The child's permission will need to be sought in order to share Court papers with the Independent Person sitting on the Panel. Legal advice will be sought if permission is not forthcoming.

**8.11.** The responsible Social Worker or Team Manager will advise the Children Safeguarding and Review Unit within 48 hours of a young person detained in Secure by way of s.25 Children Act 1989.

When organising the secure review panel the Children Safeguarding and Review Unit will request that the secure unit provide reports relating to the child's behaviour and progress on the unit, their progress in school and any information relating to therapeutic input.

A report will need to be provided by the Social Worker and authorised by the relevant Service Manager and in addition a copy of the Child's care plan, the original court report, if available, and a chronology of events prior to placement in secure accommodation. The report from the Social Worker should cover the following matters:

- The reason for the secure placement and the criteria applied
- The other options explored, why these were not considered appropriate and on what basis they have been rejected
- The extent to which the criteria are still met and the risks faced if the child does not continue to be held in secure accommodation
- The child's previous placement history (including, in the case of a child remanded to local authority accommodation, details of previous convictions and sentences)
- How the current placement is meeting the child's needs (this should include education arrangements and if appropriate any medical assessments or treatment being considered or undertaken);
- The Care Plan for the child (including what consideration has been given to how the secure placement will meet the child's cultural, linguistic and religious needs);
- The child's views;
- The views of the child's parents or others holding Parental Responsibility;
- The views of the current placement and the views of the Independent Visitor for the child;
- The social worker's recommendation to the Review Panel as to whether the child should continue to be held in secure accommodation.



**8.12.** The Children Safeguarding and Review Unit will request this documentation be sent to the Chair and Panel Members of the Secure Review Panel 5 days before the meeting.

**PRACTICE GUIDANCE:**

These meetings can be very difficult for the child/young person, so efforts should be made to keep this brief, focused on the issues, where possible tied in with the statutory review process and offer the child clarity with regards to their future placement needs.

**8.11** In reaching their decision the Panel must have regard to the views and wishes of

- The child
- Their parent
- Any other person with Parental Responsibility
- The child's Independent Advocate
- Views of the Secure Unit in which the child is placed
- The Child's Guardian
- Any other person who has had care of the child
- Legal advice where appropriate
- YOT worker where appropriate

**8.12** The review panel should also receive information about alternative non-secure placements

**8.13** Should the Review Panel come to the conclusion that the criteria for keeping a child in secure accommodation no longer exists the expectation is that the Local Authority would respond positively to this outcome, or where it does not provide an explanation of the reasons why. (LAC (92) 13)

**8.14 The child cannot be kept in secure accommodation because the Local Authority are unable to find an alternative, and this should not be a factor in reaching a decision as to whether the criteria still apply.**

**8.15** If the review panel concludes that the criteria for keeping the child in secure accommodation still apply the Local Authority must then consider requesting the Court to make a further Secure Accommodation Order.

**8.16** Where relevant, a date for the next Review Panel should also be fixed.

**8.17** Legal Services will advise on the content of any statement, which accompany additional applications to Court.

**8.18** Minutes of the Review meeting will be recorded by the Conferencing and

Reviewing Unit, whenever possible, and will be typed within 2 working days of the meeting. A minute taker will be identified by Children Safeguarding and Review Unit if not available from the Conferencing and Reviewing Unit, These minutes, once signed, will then be distributed to the persons involved, including the young person, children's guardian and legal services

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