

Secure Accommodation Reviews Guidance

SCOPE OF THIS GUIDANCE

This guidance was originally published by the Voice of the Child in Care and Secure Accommodation Network in 1998. It has been updated for inclusion in this manual.

It should be read in conjunction with [Secure Accommodation \(Criteria\) Reviews Procedure](#)

1. Introduction

Secure accommodation has an important role to play amongst the range of residential services and facilities provided by Local Authorities.

In terms of the safety and security of the premises, the skills and enhanced levels of staff available, and the specialist programmes which can be provided, a secure placement may be the most appropriate and only way of responding to the likelihood of a child suffering Significant Harm or injuring them self or others. However, restricting the liberty of children is a serious step which must be taken only when there is no appropriate alternative. A Secure Placement must be a 'last resort' in the sense that all other options must first have been comprehensively considered and rejected. A child should never be placed in secure accommodation because:

- No other placement is available at the relevant time;
- Because of inadequacies in staffing in open residential units;
- Because the child is presenting with difficult behaviour and runs away from their accommodation and is not likely to suffer significant harm in doing so.

It is important when considering the possibility of a secure placement that there is a clear view as to what is hoped to be achieved by admission and how this fits into the overall care plan. Therefore, children should not be admitted without a firm plan having been made for their discharge.

Secure placements, once made, should only be for as long as is necessary and unavoidable. Care should be taken to ensure that children are not retained in security simply to complete a pre-determined assessment or 'treatment' programme. It is important that plans are made for continuity of care, education and where appropriate, access to professional (e.g. psychiatric) support when the child leaves secure accommodation.

Because restricting a child's liberty is such a serious matter, secure placements for more than 72 hours can only be made with the permission of the courts. When hearing an application for a secure accommodation order it is normal for the courts to appoint a Children's Guardian to protect the welfare of the child.

The court, with the assistance of the Children's Guardian, will need to satisfy itself that adequate factual evidence has been produced to demonstrate that certain statutory criteria are met.

Having granted an order, if at any stage the criteria for keeping the child in secure accommodation cease to apply, they should be released as the court's authorisation is merely that, an authorisation. It is important to remember that it is unlawful for the liberty of a child to be restricted unless the criteria are met no matter how short the period in security. Equally, when a child meets the criteria set out in legislation the assumption should not be made that placement in security is automatically appropriate.

For children who are provided with accommodation on a voluntary basis, a person with parental responsibility for a child may at any time remove her/him from the accommodation which has been provided. This includes removal from placements in secure accommodation whether or not the authority of the Court to restrict the liberty of the child has been obtained.

This is where the notion of working in partnership with parents is of paramount importance and prior to admission a Written Agreement about the placement should be made between the Department and the parents to include the purpose of admission, expected duration and the arrangements for bringing the placement to an end.

2. The Legal Criteria

Section 25 of the Children Act 1989 sets out the criteria which must be met before a child in the care of a local authority can be placed and then kept in secure accommodation. It should be read in conjunction with the Children Act (Secure Accommodation) Regulations 1991.

Welfare Grounds (Sec. 25 Children Act 1989)

A child who is in care of a local authority may not be placed in accommodation provided for the purpose of restricting liberty unless it appears that:

- S/he has a history of absconding and is likely to abscond from any other description of accommodation;,

and
- If s/he absconds, s/he is likely to suffer significant harm;

or that
- If s/he is kept in any other description of accommodation s/he is likely to injure her/himself or other persons.

In Welfare Cases, the maximum periods a court may authorise a child to be kept in secure accommodation are:

- 3 months on the first application to the court; or

- 6 months in respect of any further application to the court to continue to keep that child in secure accommodation.

The Court may make shorter orders in each case.

Criminal Grounds

The Children Act (Secure Accommodation) Regulations 1991 (as amended) modifies these grounds for two particular groups of people:

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1. Children charged and detained by the Police under Section 38(6) of the Police and Criminal Evidence Act 1984;

and
 2. Children remanded or committed to local authority accommodation under Section 23 of The Children and Child's Act 1969 (remanded to local authority accommodation);

only if
 3. S/he is charged with or convicted of a violent or sexual offence or, an offence punishable in the case of an adult with imprisonment for a term of 14 years or more;

or
 4. S/he has a recent history of absconding while remanded to local authority accommodation and is charged with, or has been convicted of an imprisonable offence that has been alleged or found to have been committed while s/he was remanded;

and
 5. That any accommodation other than that provided for the purpose of restricting liberty is inappropriate because
 - S/he is likely to abscond from such other accommodation;
 - or
 - S/he is likely to injure her/himself or other people if s/he is kept in any such other accommodation.

In criminal cases the court may make an order for a period of time that does not exceed the length of the remand and in any cases does not exceed 28 days.

The maximum period of remand for an unconvicted child is 28 clear days; and 3 weeks for a child who has been convicted. When a child is committed to the Crown Court to be dealt with, but is awaiting sentence, the period before trial may well be several months. Several re-applications will therefore be necessary if the Local Authority wishes to continue to have the power to keep the person in secure accommodation.

On any adjournment of a hearing of an application to keep a child in secure accommodation the court may make an interim order permitting the child to be kept in secure accommodation during the period of adjournment.

Children under the age of 13 years cannot be placed in secure accommodation without the prior approval of the Secretary of State.

Exceptional Circumstances

Where the child is Accommodated under Section 20 of the Children Act 1989 (i.e. not subject to a Care Order) any person who has parental responsibility for the child may remove them from the accommodation provided by or on behalf of the local authority. The child may not be removed from the accommodation by a person with Parental Responsibility if s/he is subject to a Care order or, if s/he has been remanded to local authority accommodation, or is detained under the Police and Criminal Evidence Act.

Regulation 5(2) describes the children who may not have their liberty restricted in any circumstances. These are:

- a. People aged 16 or over, but under 21, accommodated in a community home under section 20(5); and
- b. Children subject to a Child Assessment Order.

3. Secure Accommodation Review Panels

The Secure Accommodation Regulations 15 & 16 set out the requirement for Secure Accommodation Reviews. Regulation 15 requires that the placing authority for a child in secure accommodation in a community home holds a review within 28-days of the start of the placement and thereafter at intervals not exceeding three months. It may on occasions be good practice for the panel to meet sooner (however some secure units insist that the secure accommodation review panel is held within 28-days and thereafter within 28-days). This requirement refers to children who are subject to:

- Section 23 - Remands to Secure Accommodation (see Regulation 6);
- Section 25 - Secure Accommodation Orders.

but not to children who are detained under Section 53 of the Children and Childs Act 1933.

Setting up the Review Meeting

1. Although it is the local authority's responsibility to set up the review it is useful if a manager in the secure unit has the responsibility to remind the social worker that work should start on setting up the review as soon as the child has been placed, so that it takes place within the time limit;
2. An identified senior manager in each local authority should have knowledge of the subject and advise on the setting up of reviews.

The Review Panel

The local authority shall appoint at least three persons who shall review the keeping of the child in such accommodation for the purposes of securing his welfare. At least one member of the panel must not be employed by, or be a member of, the local authority of which the child is in the care of. Issues of ethnic background and gender should be addressed in deciding on the make-up of the panel.

Although not stipulated in the Regulations, it is important that the Independent Person has received training in the role, been subject to a Disclosure and Barring Service check and asked to commit to a code of practice including confidentiality of information. Ideally, they should be part of a voluntary organisation which can offer training and support such as VOICE, as mentioned in Children Act 1989 Guidance and Regulations - Volume 4: Fostering Services.

The Legislation does not state who the other members of the panel should be but it is generally accepted that they should not be people who have had any direct involvement in the placing of the child in secure accommodation, in particular the Social Worker. The head of the Secure Unit should not be a panel member. In Dudley, the chair must be an Independent Reviewing Officer who is not the current Independent Reviewing Officer for the child or undertaking their Review Meetings.

Purpose of the Review

This review does not take the place of the Child in Care Review. It should be quite distinct from any other meeting even if, because of distance, it is necessary to hold another meeting on the same day.

The Review Panel is required to consider the following:

- That the criteria for keeping the child in secure accommodation continue to apply;
- That such a placement continues to be necessary and whether or not any other form of accommodation would be appropriate. In doing so the Review Panel must have regard to the welfare of the child.

According to the Regulations the persons appointed shall, if practicable, ascertain and take into account the wishes and feelings of:

- The child;
- Any parent of his/her;
- Any person not being a parent of his/her but who has Parental Responsibility for him/her;
- Any other person who has had the care of the child, whose views the person appointed consider should be taken into account;
- The child's Independent Visitor if one has been appointed; and
- The local authority managing the secure accommodation in which the child is placed if that authority is not the authority who are looking after the child.

It is also important to have information from the following, if they are involved:

- The Children's Guardian;
- Staff on the unit;
- The Social Worker;
- A Psychiatrist/Psychologist;
- A teacher.

Conduct of Proceedings

- The purposes of Secure Review meetings, sometimes called 'criteria reviews', are quite specific i.e. to ascertain whether or not the criteria for restricting the child's liberty continue to be met. The Secure Review meeting should always therefore be conducted separately from a Care Planning meeting or a Child in care Review. On some occasions however the officers of the responsible authority may have travelled a considerable distance to participate and may wish to conduct another meeting on the same occasion for reasons of expediency. This needs to be planned carefully so that everyone is clear about the agenda for each meeting;
- Large numbers of people at these meetings can be unhelpful to children so only invite those whose presence is essential. Written reports should be requested from other people;
- There are two distinct ways of conducting the meeting:
 - To have everyone in together ([Model A](#) below);
 - To see people separately (i.e. the child, the parents, the field social worker, the residential social worker, any other person) ([Model B](#) below).

On the basis of the information contained in the reports and telephone discussion held with the parties involved, the Chair will determine an optimal structure for the review.

Notes for Chair Persons

1. The purpose of the review is to determine whether:

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- a. The criteria for keeping him/her in Secure Accommodation continue to apply;
 - b. The placement in Secure Accommodation continues to be;
 - c. Necessary;
 - d. No other description of accommodation would be appropriate.

2. a. Find out whether the local authority for which you are conducting the review has any guidelines on how it should be conducted;

- b. See Conduct of Proceedings;
- c. Having decided on the format it is useful to draw up an agenda for the meeting which can be discussed with the other two members of the panel at your pre-meeting, which should take place at least 30 minutes before the review starts.

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3. Make sure that there is a minute-taker, unless you prefer to take minutes yourself;
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4. a. The Independent Person will probably want to see the child before the review to ensure that s/he understands the purpose of the meeting and has seen the reports. If you also wish to see the child before the review make arrangements with the unit;
 - b. It is important for you or the Independent Person to ascertain from the child whether s/he is happy to attend all or part of the review. The child may feel more comfortable to see the panel alone to present her/his views. It is also useful to assess the concentration span of the child before the review meeting;
 - c. If parents are attending it is also helpful to know in advance whether there is likely to be any conflict and to know how the child feels about their attendance.

4. Model Panels

Model A: To have everyone together

- a. It is useful for everyone to have a list of people taking part with their reason for being there. The Chair should ensure that all the people present introduce themselves by name, position and role in the meeting. To emphasise the make-up of the Panel it will be helpful for these three people to sit together;
 - a. Everyone should have seen all the circulated reports;
 - b. The Chair should set out the purpose and structure of the meeting and which secure accommodation criteria the panel will be testing (i.e. welfare or criminal);
 - c. In order to ensure the criteria for the Secure Accommodation Order continue to apply, evidence should be presented by the social worker and a representative of the secure unit. There should be a school report and a report from the education unit. There may also be psychiatric or psychological reports.

The evidence of absconding and being a danger to himself/herself or others given to the court are valid for the Panel to consider and more recent evidence should be given to put alongside it.

Evidence should also be submitted to meet the requirement that, "if s/he is kept in any other description of accommodation s/he is likely to injure himself or others".

Where the child is on remand there should be a history of offending behaviour and a list of outstanding charges.

The child and/or his/her representative should be permitted to offer a different view or challenge the evidence presented. Note should be made in the minutes of different points of view or interpretation of the facts.

The child and/or his/her representative should then be permitted to present the evidence for the child and similarly the social worker and the representative of the secure unit should be permitted to offer a different view of the facts. Finally, the social worker and/or the representative of the secure unit should be asked to summarise the facts and the child and/or his representative must summarise the child's views;

- d. The Review Panel should then withdraw to discuss their findings before presenting them to the meeting.

Model B: Conducting Individual Interviews

Individual interviews mean that no-one is inhibited from saying what they want to because everyone is present to hear it. It is also less intimidating for the child and the parents. The disadvantage of this model is that information and opinion cannot easily be challenged.

A draft timetable for such a review meeting might be:

2.00: Independent Person arrives to see child

2.30: Panel members meet to discuss the case

3.00: Panel meet child (with support person of his/her choice)

3.30: Panel meets parents

3.45: Panel meet social worker

4.00: Panel meet staff from secure unit

4.15: Panel discuss decision

4.30: Feedback to meeting of all people present

These times may have to be varied depending on the circumstances. This model can only be used if space is available in the building.

1. The Child

The Children Act welfare checklist should be kept in mind by all people involved with the review meeting.

In making a decision about a child/child's welfare consideration must be given to:

- The wishes and feelings of the child/child (with due regard given to his or her age and level of understanding);
- The physical, emotional and educational needs of the child/child;
- The effect on the child/child of any changes in his or her circumstances;

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- The child's age, gender, background and other relevant factors such as race, culture, language and religion.

2. Preparing the Child for the review

Young adults who have been in care still remember vividly the trauma of attending reviews; how powerless they felt and the fact that no-one listened to them.

- It should be clear whose responsibility it is to prepare the child for the review - the social worker or the key worker in the unit. The VCC Representatives who visit the units have a role here to check with the children that this is happening. The Independent Person should see the child before the review;
- Any new information should be shared with the child and parents before the meeting - there should be no surprises.

3. The Child at the meeting

The child should always have an input to the review and should be encouraged to put something in writing to go alongside the other reports. S/he should be informed of the right to independent representation and arrangements should be made for briefing before the meeting and de-briefing afterwards.

If the meeting takes the form of individual interviews and the child is seen first and then invited back with everyone else at the end it is important to plan what will happen to the child in the interval. S/he should not just be sent back to the unit.

The Chair needs to sum up in language that the child can understand.

5. Guidelines for Person Planning the Review

1. It is the allocated Social Worker's responsibility to set up a review;
2. As soon as the secure accommodation order is obtained, start planning the review (you only have 28 days).
3. The review should be held in the residential establishment to ensure that the child can attend;
4. Contact the secure unit to see if they have any special arrangements regarding review panels (e.g. held on a particular day of the week);
5. Identify the three panel members including who will Chair (Independent Reviewing Officer) and who will be the Independent Person (IP). IP's can be supplied by the Voice;

6. The Panel should comprise a mix of race and gender where appropriate and none of the panel members should have had a significant involvement in the placement decision;
7. Discuss format of review with Chair and the need to draw up an agenda, drawing upon Section 2 of this Procedure, 'Legal Criteria';
8. Arrange possible date and time in discussion with members of the panel, the social worker, the child's parents and any other people to be invited;
9. Send out giving a list of those invited to attend the meeting and the names of the panel members, and confirm the date, time and place. Remember to include travel directions to venue. Ask for written reports by a certain date;
10. When the reports arrive, circulate to all parties. This will allow for proper preparation by all parties and mean that the meeting should run more smoothly. If papers have to be tabled, arrange for people to see them before the meeting. Inform those attending of the format of the meeting and agenda if you have not already done so. Care should be taken in the handling of reports which are confidential;
11. Arrange for a minute taker;
12. Make sure that the establishment will make arrangements for participants to be welcomed when they arrive, make sure there is somewhere for them to wait, that a meeting room is available and that refreshments are available if possible.

6. After the Review

The minutes should be written up within a week and should contain a specific statement confirming whether the criteria were met or not. They should be signed by the Chair and circulated to all those invited, including the child and the line manager of the social worker.

The local authority needs to provide information for all those invited to the Review about what action, if any, they propose to take in relation to the child in the light of the Review decisions together with their reasons for taking, or not taking, such actions.

A Senior member of the placing authority's Children's Services department who has responsibility for placement decisions should sign a copy of the minutes.

If the recommendation of the panel is that the criteria no longer apply, this must immediately be reviewed by the Team Manager with the Director of Children's Services, and a decision made about whether to accept the recommendation. Legal advice should be sought in coming to this decision.

The results of the review panel meeting and what action is taken and the reasons must be sent in writing to all persons involved.

If the decision is that a child remains in secure accommodation a date for the next Review should be set, with preferably the same Panel in attendance. This must be held within three months.

There is no formal right of appeal against the Panel recommendation or any decision that the authority may come to, but the child, or someone on his/her behalf, can make a Complaint or can seek their own legal advice.

7. Reports Which Should be Available to the Panel

The Social Worker should prepare a report for the Review

In preparing a report for a secure accommodation review it is necessary to remember that the review panel may have little or no previous knowledge of the child. Given the importance of the secure accommodation review and its purpose in deciding whether or not a child remains in secure accommodation, it is essential that your report contains quality, factual information on which to make its decision. You are advised to utilise the Children Act Welfare Checklist in the preparation of your report thus providing a child-centred perspective, i.e. the child's race, culture, language and religion and ascertaining the child's wishes.

The following areas should be covered:

1. Family details / structure and background to family history;
2. Case history - details of Children's Services intervention and copies of any medical, educational or psychological reports;
3. Circumstances leading to secure accommodation and purpose of placement;
4. Alternative placements explored and why they are not suitable;
5. The exit plan, including placement, education, other resources and time-scale.

Please include a copy of the report presented to the court outlining the criteria for placement.

Don't forget to check out your report with your Team Manager if you need to.

The reports will be presented to the review panel who will give you the option to add to it verbally if necessary and then raise issues / questions as appropriate.

- a. A report from the **secure unit** which should cover:
 - o **A profile of the child on admission to the unit;**
 - o **The programme offered by the unit to the child,** which should contain the elements of the programme agreed by the placing authority and the pre-admission/planning meeting and should include details of contact with family;
 - o **The child's response to the programme,** which should describe how the child has responded to the agreed programme including the education aspects, and the use of sanctions and measures of control. Particular reference should be made to the outcomes of work addressing those behaviours which provided grounds for the Section 25 Order;
 - o **The criteria now for Section 25 Order.** This should discuss the young person's present condition and behaviour in relation to the criteria for restricting liberty detailed in Section 25, Children Act 1989. Details of any mobility programme should be given;
 - o **The need for and appropriateness of placement in secure unit, taking into account the child's welfare.** This section should discuss within the context

of the criteria and the child's welfare, whether the placement at your secure unit remains necessary or whether some other form of accommodation would be more appropriate (this information may need to be updated at the meeting);

- **Recommendation.** This section should list any recommendation that the staff of the unit wish to make to the review panel.
- b. A report from the **psychiatrist/psychologist**, if available;
- c. The child should be encouraged to make either a written or verbal contribution.