**West Sussex – Practice Guidance**

IROs are qualified social workers with at least five years’ experience, and who have acquired the right skills to carry out this role.

**At Risk of Secure Meeting Guidance (AROS)**

**1.** **Introduction**

Restricting the liberty of a young person is a serious step which must be taken only when there is no genuine alternative which would be appropriate. It must be a “last resort” in the sense that all else must first have been comprehensively considered and rejected – never because no other placement was available at the time, because of inadequacies in staffing, because the young person is simply being a nuisance or runs away from their accommodation and is not likely to suffer [Significant Harm](http://trixresources.proceduresonline.com/nat_key/keywords/significant_harm.html) in doing so, and never as a form of punishment. Secure accommodation is one of a range of services to meet the specific needs of individual young people, not just about restricting liberty.

It is important in considering the possibility of a secure placement, that there is a clear view of the aims and objectives of such a placement and that those providing the accommodation can meet those aims and objectives fully.

Secure placements, once made, should only be for so long as is necessary. The first order may only last for 3 months. An order serves to authorise the local authority to place a child in secure accommodation. It is permissive and does not require the local authority to take this action as such. Should the criteria for secure accommodation cease during the currency of the order, the young person must be moved to more appropriate accommodation.

No child under the age of 13 years may be placed in secure accommodation without the express permission of the Secretary of State. For more information as to how to obtain permission see the DfE Guidance - [Secure Children's Homes: How to Place a Child Aged Under 13](https://www.gov.uk/secure-childrens-homes-how-to-place-a-child-aged-under-13).

No young person aged 16 or over whose legal status is “accommodated voluntarily” under s20(5) Children Act 1989 may be placed in secure accommodation. The placement for welfare reasons of young persons aged 16 years and over who are subject to care orders is permissible but would only be used in exceptional circumstances.

Only the local authority who is looking after the young person may apply for an order (Regulation 8).

**2.** **Principles Underpinning the Use of Secure Accommodation**

All placements must be in line with the welfare principles outlined in the Children Act 1989, including equal opportunities issues.

There must be clear aims and objectives for each placement in secure accommodation.

Every young person in secure accommodation should have access to an Independent Representative/Advocate, and recourse to the formal complaints procedure.

**3.** **Criteria for Admission to Secure Accommodation**

NB - It is unlawful to keep a young person in secure accommodation unless these criteria as laid down below have been met.

Young People who are [Looked After](http://trixresources.proceduresonline.com/nat_key/keywords/looked_after.html) i.e. those children and young people subject to a Care Order under Section 31 of the Children Act 1989 or accommodated under Section 20 with the agreement of a person with [Parental Responsibility](http://trixresources.proceduresonline.com/nat_key/keywords/parental_respons.html) and:

* That the young person has a history of absconding and is likely to abscond from any other description of accommodation AND, if they abscond is likely to suffer [Significant Harm](http://trixresources.proceduresonline.com/nat_key/keywords/significant_harm.html);
* That if they are kept in any other description of accommodation they are likely to injure themselves or other people.

NB “History of absconding” should refer only to behaviour which is relevant to the current situation and not to previous absconding which may have little or nothing to do with the current situation.

Other circumstances are:

* Where a young person has been remanded in custody without proper consideration of the criteria for placement in secure accommodation; or
* Where a member of the Senior Management Team receives information that the behaviour and circumstances of the young person are such that they may meet the criteria for placement in secure accommodation.

**4.** **Time Limits**

No young person in care or accommodated may have their liberty restricted for a period longer than 72 hours either consecutively or in aggregate, in any period of 28 days without the authority of the Court.

The exception to the 72 hour rule is covered by Regulation 10(3) which provides that, where a child/young person is placed in secure accommodation between 12.00 midday on a day before and 12.00 midday on the day after a public holiday or Sunday:

1. During that period the maximum period of 72 hours expires; AND
2. The child had, in the previous 27 days before the day on which s/he was placed in secure accommodation, been placed and kept in such accommodation for an aggregate of more than 48 hours.

The maximum period shall be treated as if it did not expire until 12.00 midday on the first day, which is not in itself a public holiday or Sunday.

This limited extension is intended to cater for the emergency placement of a young person in secure accommodation when a major proportion of the 72 hours has already been used up, and it is unlikely to be possible to arrange for an application to be heard by the Family Proceedings Court before the 72 hours expires.

Regulation 10 does not apply to those young persons admitted to secure accommodation who have 24 hours, or more, left of the 72 hours permitted aggregate. In these cases, an application must be brought before the Family Proceedings Court within the 72 hour period if it is intended that the placement should continue beyond that period, even in those cases where there the period would expire on a Sunday or Public Holiday when courts do not normally sit. Family Proceedings Courts can make arrangements to convene a special court at short notice, in order to co-operate as fully as possible with the requirements of the Act and the Regulations.

 **5.** **The Decision Making Process - AROS**

There must be a prior discussion with the IRO as this is a significant change for the young person. The IRO will consider the need for and timing of a review meeting. Where the department is considering that secure accommodation might be the only possible option, the Service Leader must be contacted to discuss the concerns and consider what possible options have been explored.

Where this discussion concludes that secure accommodation should be further pursued, the Service Leader must discuss the case with the Head of Children’s Social Care/Strategic Partnership Lead for HRA? This process is designed to gate keep the AROS process and decide whether to recommend that an AROS panel should be convened.

The AROS meeting, if convened, must be a properly constituted panel. It is essential that the young person has the opportunity to properly engage in the panel discussions, and the panel are able to fully participate. In order for this to be meaningful, the AROS panel must be chaired by a Service Leader or above. Consideration of whom to invite when forming a panel may include:

* Strategic Partnership Lead for HRA and/or
* Service Development Lead for Adolescents
* IRO
* Service Lead/Group Manager/Practice Manager
* Legal Advice to the AROS Panel - a representative from the County Secretary’s Legal Department should attend and advise the panel. However, if they are unable to send a representative, consultation must have taken place prior to the meeting to establish advice as to whether the criteria for secure accommodation are met.

Other persons who may attend/provide information to the AROS panel can include:

* The views of parents and carers should be sought and every effort made for them to attend in person.
* The young person’s view should be taken into consideration and every effort made for them to attend in person.
* The child’s Advocate (if they wish) to support the young person and ensure their views are heard or to attend on their behalf.
* Where the concerns relate wholly or in part to a young person’s offending behaviour the Youth Offending Service should attend.
* If they are already in care their carers or key residential staff should attend.
* Mental health representative where appropriate.
* Education where appropriate.
* Any other person who the local authority consider should be informed.

Where it is considered inappropriate for a young person or their parent(s) to attend, the reasons for this should be discussed in advance with the chair of the AROS Panel who will record the decision and the reasons for it. The Chair should also be advised of any sensitive issues which might require particular arrangements to be made with regard to how the meeting would be most helpfully organised.

**Reports for the AROS Panel**

A risk assessment/SoS assessment should have been completed and a chronology made available to the AROS Panel.

In emergency situations where it is not possible to convene an AROS meeting, the Director of Children and Family Services or, in their absence, the Executive Director CAFH&E, may act using the Director’s discretionary powers under Regulation 10.3 and give verbal approval where:

* A young person is at risk of immediate and significant harm;
* The public are considered to be at risk of immediate or serious injury;
* A young person who would otherwise be detained by the police under PACE but who needs to go to a welfare secure bed, and also needs to satisfy the S25 criteria.

**AROS Panel Function**

The AROS Chair will consider the legal advice and that of AROS members as to whether or not:

* The relevant legal criteria are satisfied;
* Any other form of accommodation is appropriate;
* The use of secure accommodation is a genuine last resort; and
* Whether or not an application should be made to a court for an order.

**6.** **Procedure to be Followed**

The AROS Panel will:

1. Consider the application and the Chair will record their decision reflecting any different views of AROS members; and
2. provide minutes of the meeting and their decision which will be distributed to:
* AROS members
* Social Work Team Managers for relevant child if panel not attended
* Legal Team for court
* Head of Children’s Social Care
* DCS
1. Advise on next steps to be taken, including:
* Approving use of the Director’s discretion pending any application to a Court;
* Recommending the length of any order to be sought;
* Approving any special escorting arrangements, including police assistance;
* Recommending an alternative strategy where an application has been turned down.

Decision - The chair of the Panel will confirm the decision of the panel and request DCS authorisation for the use of secure or approval for the decision not to place in secure at this time.

If the AROS Panel agree that it is appropriate for a [**Secure Order**](http://trixresources.proceduresonline.com/nat_key/keywords/secure_accom_order.html) to be sought, such action must be effected within seven days of the AROS meeting decision being made.

If an Order is not made within that timescale, (for example, because there was no Secure bed available, child was missing etc.), then, if Secure Accommodation seems still to be appropriate, a further AROS meeting must be held in order to consider the current information.

Any decision taken to seek a placement in secure accommodation must be taken at a senior level within the authority. Such authority is vested in the Director of Children and Family Services or their delegate.

**7.** **Applications to Court**

In non-criminal proceedings the maximum duration for which a court can authorise the use of secure accommodation is 3 months. Following such an order, further orders, not exceeding 6 months may be made.

In non-criminal proceedings application should be made to a Family Court.

In non-criminal proceedings as soon as an AROS panel has agreed that an application for a secure order should be made, the relevant Court Office should be contacted to book a date for a hearing.

Forms C1 and C20 (Application for an Order to hold a young person in secure accommodation) should be completed and lodged with the relevant Magistrates’ Court Office in advance of all applications to the Family Courts. Once the Court Office has completed the application, copies of the forms should be served on the child, any person with parental responsibility for the child, the child’s legal representative and the County Secretary’s Legal Services. The forms should be served no later than one day before the day that the hearing is listed.

In non-criminal proceedings applications for secure accommodation orders should be made by a solicitor from the County Secretary’s Legal Services. Evidence in support of the application will be required preferably in the form of written statements or reports.

All applications to court for a Secure Accommodation Order should be accompanied by a written application.

Prior to leaving the court a copy of the Secure Accommodation Order **must** be obtained from the Court Clerk and subsequently handed to a senior member of staff at the secure unit where the child/young person is to be placed.

The young person should not be allowed to leave the Courtroom until the order has been obtained and s/he will not be (re-)admitted into secure accommodation without written evidence of the authority for placement.

NB - No Court shall make an order in respect of a child who is not legally represented in that Court unless having been informed of their right to apply for legal aid and having the opportunity of doing so, he/she has refused.

Where approval is given for an application to proceed, a placement plan should be drawn up which takes account of the anticipated duration and arrangements for bringing it to an end.

**8.** **Placement Considerations**

In order to locate a suitable placement, the social worker should contact the [**Secure Accommodation Welfare Coordination Unit**](http://www.securechildrenshomes.org.uk/referrals-new/) for information about vacancies.

At this point there should be enquiries made about the physical intervention techniques used within the secure units being approached, and their policy on mobility.

**9.** **Planning Requirements**

Wherever possible, a meeting should be held to plan the admission, draft an initial placement plan and consider its links with the care plan.

**10. Complaints**

The Department’s complaints procedure are applicable to any decision by an AROS Panel and any person eligible to use the procedure and wishing to do so should request an urgent review of the decision. In such circumstances, a further AROS meeting will be convened.

Where the complaint is in respect of a decision to apply for an order, the complainant should be advised that the correct procedures are to contest the decision in court. The complainant should be encouraged to seek independent legal advice.

**SAR Chairs and Panel Members**

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