

LONDON BOROUGH OF TOWER HAMLETS

Secure Accommodation and Deprivation of Liberty Procedure

for Children We Care For



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1. **INTRODUCTION**
	1. **Scope**

This procedure applies to the placements of Children We Care For in secure accommodation on welfare grounds and should be used when considering the use of Deprivation of Liberty.

A deprivation of liberty is when a person has their freedom limited in some way. It occurs when: '**The person is under continuous supervision and control and is not free to leave, and the person lacks capacity to consent to these arrangements**.

Restricting the liberty of children in order to safeguard their welfare is clearly a very serious step and should only be used on rare occasions. This should be taken only when the needs of the child cannot be met by a more suitable placement elsewhere. Section 25 of the Children Act 1989 sets out two criteria, one of which must be met before a young person being looked after by the local authority can be kept in secure accommodation. Restricting the liberty of a child should be given the same consideration and needs to meet this criteria.

Throughout this document the reference to secure accommodation should also include, if not recorded, deprivation of liberty.

* 1. **Related Procedures**

Remands to Local Authority Accommodation or to Youth Detention Accommodation Procedure

YJFIS and CSC Protocol for Joint Working

Procedure for Accommodation Requests under Police and Criminal Evidence Act (PACE).

Secure Accommodation Reviews; A Practical Guide 4th Edition 2021 Voice

Placing a Child in Secure Accommodation by Practical Law Family

Placing a Deprivation of Liberty of Children by Practical Law Family

Any decision in relation to the placement of young people into secure accommodation should also consider the appropriateness of the use of Depravation of Liberty legislation. Any decision should consider if the use of DoLs would be more appropriate in terms of providing the structure and formal over-sight to the young person without the need to use the secure estate whilst understanding the process for this is the same.

* 1. **Legal Framework**

The legal framework and practice issues relating to placements in secure accommodation can be found in the following:

* Section 25, Children Act 1989;
* Children (Secure Accommodation) Regulations 1991
* Statutory guidance on court orders and pre-proceedings for local authorities dated April 2014 [[1]](#footnote-1) at paragraphs 39-50.
* The Children’s Homes (England) Regulations 2015
* Guide to the Children’s Homes Regulations including the quality standards dated April 2015 at Annex B
* Guidance on Secure children's homes: how to place a child aged under 13
* Guidance on Deprivation of Liberty
	1. **Overview of Secure Accommodation / Guiding principles**

Secure accommodation is provided for the purpose of restricting the liberty of a child being Looked After by a local authority, where the provisions of Section 25 (1) Children Act 1989 are met.

Restricting the liberty of a child is a serious step which should only be taken where it is necessary and where other alternatives have been considered. This does not mean that all other alternatives must have been tried. But in order to apply to the Court for secure accommodation order, it is vital that the local authority has made a careful assessment that this is the most appropriate option to meet that child’s particular needs. The secure placement should arise as part of the local authority’s overall plan for the child’s welfare.

The local authority has a duty to take reasonable steps to avoid the need for young people to be placed in secure accommodation. The decision must be in the best interests of the young person and be the most appropriate way of safeguarding and promoting a young person’s welfare.

Unless it is a secure remand, a secure placement must last only for as long as it is necessary and unavoidable, and the criteria still exist.

The Guidance also states that ‘a decision to place a child in secure accommodation should never be made because no other placement is available, because of inadequacies of staffing in a child’s current placement, or because the child is simply being a nuisance. Secure accommodation should never be used as a form of punishment’.

**1.5 Definition of a Looked After Child**

The definition of a Looked After child is a child under the age of 18:

1. who is subject of a care order or interim care order; or
2. has been accommodated for at least 24 hours under any of the local authority’s social care functions (including voluntary accommodation under section 20, an emergency protection order under section 44 or police protection under section 46 of the Children Act 1989); but
3. excludes relevant children who are being provided with accommodation pursuant to section 23(b).

In the event secure accommodation is being considered for a child because of an immediate risk of harm and that child has not previously been Looked After, an application for an interim care order must be sought at the same time as a secure accommodation order and the 72 hour rule (see 2.2) cannot be used. These applications can be made at very short notice or out of hours if necessary.

In addition to this, there are various groups of children to whom section 25 of the 1989 Act does not apply ([[2]](#footnote-2)):

1. children detained under any provision of the Mental Health Act 1983 or in respect of whom an order has been made under section 90 or 91 of the Powers of the Criminal Courts (Sentencing) Act 2000;
2. children aged 16 or 17 provided with accommodation in a community home under section 20(5) of the 1989 Act (young people who require accommodation to promote and safeguard their welfare but have no additional care needs – often those who have asked to come into care); and
3. children subject to a child assessment order under section 43 of the 1989 Act.
4. **SECURE ACCOMMODATION CRITERIA**
	1. **Placements on Welfare Grounds**

Section 25(1) of the Children Act 1989 sets out the two ‘welfare’ criteria which must be met before a Child Looked After may be placed in secure accommodation.

“... a child who is being looked after by the local authority may not be placed, and, if placed, may not be kept in accommodation provided for the purpose of restricting liberty (secure accommodation) unless it appears that:

1. i. s/he has a history of absconding and is likely to abscond from any other description of accommodation,

**and**

ii. if s/he absconds, s/he is likely to suffer significant harm.

**or**

1. if s/he is kept in any other description of accommodation s/he is likely to injure himself or other persons.”

The court must also consider the young person’s welfare but because of the nature of the proceedings it is not the paramount consideration.

The use of secure accommodation should be for the minimum period necessary, following an assessment of likely risk to child, others and public safety. ***An exit plan from the secure placement should also be formulated and included within the overall plan for the young person at the point of any decision to apply for a secure order.***

An exit plan ending DOLs needs to be formulated and included in the overall plan for the young person at the point of any decision to apply for a DOLs.

Once the criteria cease to apply, the child’s liberty must not continue to be restricted, even if there is a Secure Accommodation Order still in existence.

Where Children are detained under section 38(6) Police and Criminal Evidence Act 1984, the welfare criteria described above is modified. Regulation 6 of the Children (Secure Accommodation) 1991 Regulations amends the threshold so that children may not be placed, and if placed, may not be kept in secure accommodation *unless it appears that any accommodation other than that provided for the purpose of restricting liberty is inappropriate because:*

1. the child is likely to abscond from such other accommodation

**Or**

1. the child is likely to injure himself or other people if s/he is kept in any such other accommodation

This means that some elements of the section 25 welfare criteria such as that which requires that a) a child has a history of absconding, b) a child is likely to suffer significant harm in the event s/he were to abscond – are not required to be met where the child is detained under section 38(6) PACE 1984. All that is required is that s/he is likely to abscond **OR** likely to injure himself or other people if kept at any other accommodation.

* 1. **The 72 Hour Rule**

Secure Accommodation placements can be approved by the Corporate Director for Children’s and Culture for up to 72 hours in an emergency([[3]](#footnote-3)). Only a court can grant permission for placements beyond 72 hours.

A child Looked After who meets the criteria may be placed in secure accommodation for a maximum period of 72 hours in any 28 consecutive day period without a Secure Accommodation Order. It is vital that Legal Services are informed immediately when a child is placed in secure accommodation under the 72 hour rule, as a court application will need to be issued immediately, and the hearing listed before this period expires. This may need to be heard the same day as the child is placed in secure, if the period will expire over the weekend.

Some relaxation of this provision is provided where a child is placed in secure accommodation at any time between 12 midday on the day before and 12 midday on the day after a public holiday or a Sunday, and:

1. during that period the maximum period of 72 hours expires;

**and**

1. in the 27 days before the day on which s/he was placed in secure accommodation, s/he has been placed and kept in secure accommodation for an aggregate of more than 48 hours.

Then, the maximum period (of 72 hours) shall be treated as if it did not expire until 12 midday on the first working day after the public holiday or Sunday. This limited extension of the 72 hour rule is intended to cater for the emergency readmission of a child to secure accommodation, who has previously been detained.

This means that where the case does not meet both criteria a) and b) above, an out of hours application must be made to the court.

A court may authorise a child to be kept in secure accommodation for a maximum period of:

1. 3 months on the first application to the Court
2. 6 months on subsequent application to the Court

The Court may grant shorter orders. A local authority may choose to apply for a succession of such orders.

Children under the age of **13 years** cannot be placed in secure accommodation without the prior specific approval of the Secretary of State who may include terms and conditions about placement. (see section 4). ***This standard should be maintained when considering deprivation of liberty for a child under 13 years old.***

1. **MAKING A LOCAL AUTHORITY PLACEMENT IN SECURE ACCOMMODATION**
	1. **Consultation**

When considering an application for secure accommodation or a DOLs, and throughout the identification, planning and placement process, the social worker must consult with and consider the views of the following people:

1. the child;
2. the child’s parents and those with Parental Responsibility;
3. anyone who is not a parent but has been caring for the child;
4. other members of the child’s family who are significant to the child;
5. the child’s school and /or Education Service;
6. the Youth Justice and Family Intervention Service if the child is known to them
7. the child’s Independent Visitor if appointed;
8. the local authority managing the secure accommodation in which the child is placed if this is not the local authority with responsibility for looking after the child.
	1. **Approvals**

The decision to place a child in a secure accommodation or DoLs placement on welfare grounds can only be made with the specific approval of the Corporate Director for Children’s and Culture Directorate.

To request approval the Social Worker must complete Pre-Secure Meeting Template (Appendix 1). A meeting is then convened to decide about an application for secure accommodation.

The Social Worker should convene a planning meeting to be chaired by a Head of Service, who does not have overall management responsibility of that child. Those consulted should be invited to attend as well as a representative of Legal Services. The Children’s Placements Team (CPT) should be alerted to the planning meeting and invited, if deemed appropriate. In the event that a representative of Legal Services cannot attend the meeting; his/her legal advice in respect of the Section 25 criteria should be sought prior to the meeting. Following the meeting the legal representative should be given an update and the outcome of the panel to enable him/her to review their initial advice.

The chair of the meeting will only recommend a request to place a child in secure accommodation or DOLs provision where:

1. the criteria for Secure Placements as set out in section 2.1. are met;
2. alternatives have been comprehensively considered and rejected;
3. the aims and objectives of such a placement are clearly identified.

And needs the Corporate Director of Children’s and Culture Directorate agreement before proceeding with.

Where there is agreement that a secure placement or DOLs on welfare grounds is appropriate, the Social Worker must contact Legal Services regarding the application to Court for a Secure Accommodation Order / Deprivation of Liberty.

In relation to a child under 13, the approval of the Secretary of State will also be required – see section 4.

* 1. **Court Application**

The child’s social worker must liaise with Legal Services regarding the preparation of evidence to support the application. This will include a statement setting out the case background including why no other form of accommodation can meet the child’s needs and a Care Plan setting out the aims and objectives of the placement and the intended plan to return the child to open conditions.

The child should be prepared for the court hearing by the social worker who should explain the procedure and possible outcomes. The child should also be advised of the right to be legally represented at the hearing.

The child should attend the hearing unless there are very good reasons that this would be contrary to their welfare. The social worker should book a secure escort for the hearing via Children’s Placement Team.

Where the placement is required before there is time to obtain a Secure Accommodation Order, the Corporate Director, Children’s Services can authorise the placement for up to a maximum of 72 hours (see section 2.2).

1. **PLACEMENTS OF CHILDREN UNDER THE AGE OF 13**

A placement of a child under the age of 13 years can only be made with the approval of the Secretary of State. The process for seeking this approval can be found in the guidance on Secure Children's Homes: how to place a child aged under 13 ([[4]](#footnote-4)).

The Head of Service with case responsibility must follow these steps to get the Secretary of State’s approval:

**Phone the DfE children in care team**

Make sure you have the following information when you call:

* the name and date of birth of the child you wish to place in a SCH
* the reasons why you want to place them in a SCH
* confirmation of whether you have identified an available bed in a SCH
* confirmation of whether the child is currently with you or whether they are missing from care
* details of when you intend to go to court to seek a [secure accommodation order](http://childprotectionresource.online/category/secure-accommodation-orders/) for the child
* details of the alternatives to a secure placement you have considered and why you think a secure placement is necessary
* confirmation of whether you have approached the Secure Welfare Co-ordination Unit (SWCU) to submit your referral

Children in care team

24 hour helpline, available 7 days a week 0208 142 5218

### Email documentation to DfE

During your initial phone call we will give you a contact email address. After the call, you must email us the following documents:

* a letter signed at assistant director level or above explaining why you are applying, which should include:
	+ confirmation that they have reviewed the application and in their view the section 25 criteria are met
	+ confirmation that they have taken advice from their legal department
* case history and chronology including a:
	+ full case history recording interactions with social services
	+ record of recent incidents, covering at least the last 3 months, which gives evidence of how the section 25 criteria are met
* a detailed care plan that covers the period the child will be in secure accommodation, which as a minimum should include:
	+ confirmation that the section 25 criteria are met
	+ the alternatives to a secure placement that have been tried or considered
	+ explanation of why the local authority thinks a secure placement is the best option for the child
	+ what the aims of the secure placement are
	+ what the young person’s needs and challenges are and how these will be addressed during the secure placement, including expectations of the secure provider
	+ what the exit strategy is for the young person’s return back into the community or another placement
* confirmation of the intended initial length of the secure accommodation order or placement
* a list of assessments, for example psychiatric, psychological or health, that have been or will be carried out during the secure placement
* identification of any therapeutic provision that will be required
* the intended outcomes from the secure placement or preparation for transition

The Department for Education will discuss this information with appropriate inspectors at the Regulatory Authority, who will make a recommendation as to whether the Secretary of State’s approval should be given. The Department for Education will then consider and advise the local authority of the decision.

1. **PLANNED PLACEMENTS**
	1. **Placement Request, Identification and Approval**

Where there is agreement that a child requires a secure/DoLs placement, the Social Worker should make a referral to Children’s Placement Team (CPT), who will contact Hampshire County Council in order to identify a suitable placement.

The terms and conditions of the placement must be approved by the Corporate Director, Children’s and Culture Directorate and included in the contract with the provider in relation to the placement.

If a placement is offered, written confirmation of an undertaking to pay the stated fee and, where relevant, written confirmation of authorisation for a 72 hours placement will be required by the home.

In April 2017 the Children and Social Work Bill (Scotland) received Royal Assent. This means that there is no longer a requirement to mirror orders to place children from England in Scottish Secure units. This aspect of the Children and Social Work Act 2017 comes into force immediately. This is a new power for local authorities in England and Wales to send children to be detained in secure accommodation in Scotland under the Children Act 1989.

Note that the legal requirement to appoint three people ([[5]](#footnote-5)), one of whom must be independent of the local authority, to review the child’s detention in secure accommodation has also been dis-applied to those sent to Scotland.

* 1. **Placement Planning**

The social worker must send notification of the placement to all family members consulted and involved in the decision-making process. This should take place prior to placing the child or within 5 working days.

The social worker should liaise directly with the DoLs/secure unit provider to establish the placement planning procedure.

A placement planning meeting should take place prior to placing the child. If this is not possible, it must take place within 72 hours of placement. The child, parents and any other significant family members and relevant professionals should be invited to attend the planning meeting.

The purpose of the planning meeting is to share information and the Care Plan, plan the timing of the placement and ensure that a placement plan / placement information record is drawn up.

Following the meeting, the social worker will complete and arrange circulation of the Care Plan to the child, parents, IRO and Secure Unit Manager / DOLs provider.

The social worker and Secure Unit Manager will arrange for the placement plan / placement information record to be finalised and circulated to the child and parents.

The Care Plan and placement plan / placement information record will be entered onto Mosaic by the social worker.

Information about the Looked After Service and the authority’s complaints procedure must be provided to the child and their parents.

In all cases, the social worker will accompany the child to the placement to help them to settle in.

The social worker must also ensure that the child is registered with a GP, Dentist and Optician and that a Health Care Assessment is in place if necessary (see [health procedures](http://towernet/content/business_areas/escw/20876/csf_procedures_and_policies)).

The social worker must notify the child’s IRO and contact the Head of Service SQA SAQ@towerhamlets.gov.uk to make arrangements for a DoLs/Secure Accommodation Review to take place within 28 days of a child / young person placed in secure accommodation.

1. **REVIEW OF LOCAL AUTHORITY PLACEMENT IN SECURE ACCOMMODATION or DOLs PLACEMENT**
	1. **Purpose**

The purpose of a Secure Accommodation Review / DOLs is to consider the following:

* whether the criteria for keeping a child in secure accommodation continue to apply, on the day of the review (see section 2.1);
* whether such a placement continues to be necessary; and
* whether or not any other form of accommodation would be appropriate.

Reviews under the Secure Accommodation Regulations are entirely distinct from a LAC (Looked After Child) review and is not a substitute for it. This should be made very clear to all concerned.

The review under Secure Accommodation Regulations is entirely different to those for children subject to DOLs. Although it is not possible to replicate the review mechanism for Secure Accommodation for DOLs, it is intended that any child subject to a DOLs will have a significant high level of scrutiny, as so to ensure no children has their human rights breached. It is therefore proposed that a child subject to a DOLs will be reviewed in line with the same time scales as children subject to secure accommodation orders and though the legal planning panel.

* 1. **Timescales for secure accommodation review**

A Secure Accommodation Review must take place within 28 working days of a child being placed in secure accommodation and every three months thereafter.

The Secure Accommodation Review Panel should be convened to consider any application to the court to keep the child in secure accommodation beyond the expiry of the current Secure Accommodation Order.

* 1. **Timescales for DOLs review**

A review of the DOLs should take place within 28 days of a child being placed with a DOLs and every three months thereafter.

A review of the DOLs should be convened through the Legal Panning Panel to consider any application to the court to keep the child subject to a DOLs order beyond the expiry of the current DOLS.

* 1. **Secure Accommodation Review Panel**

The Secure Accommodation Panel is responsible for listening to the views of those who attend/contribute and coming to a decision about whether they believe the criteria for secure accommodation are still met. The Panel cannot come to a decision about whether the child should remain or leave secure accommodation; it can only make a recommendation on this to Corporate Director, Children and Culture or Director of Supporting Families.

The membership of the Panel is made up of:

1. the Chair, who should be a Head of Service, from any CSC service other than the one which manages the case (to ensure independence)
2. a Children’s Independent Reviewing Officer other than the one acting in a normal capacity as IRO for the child; and
3. a representative for the child who is independent from the Local Authority.

Access to the Panel is via the SQA Business Support Officer who arranges membership of the panel chair and CIRO. The social work team is responsible for arranging the 3rd Panel Member.

The Review Panel will meet at the relevant secure unit.

* 1. **Review of the DOLs placement**

A review of each child’s DOLs should take place within 28 days of the arrangement, at the Legal Planning Panel. An explicit time slot needs to be arranged with the administrator of the Legal Planning Panel and a Head of Service, independent of the line management of the child placed subject to DOLs, will lead the review of the DOLs.

The social worker will be responsible for preparing a report (using the Secure Accommodation Review Panel Report Template, appendix 2) for the LPP, which has been approved by the social worker’s manager and reflects the views of those consulted about the placement, the Children’s Guardian and the DOLs provider. The report must include an exit plan. This must be sent to the LPP administrator x working days before the LPP.

An independent Head of Service (with no case line management or involvement with the child) will attend the LPP and will be responsible for the independent review of the DOLs, alongside the LPP standing members and chair. The independent Head of Service will be responsible for determining, once all the information has been shared, about whether it is appropriate for the DOLs to continue. The Head of Service will complete criteria for DOLs and decision in the form.

The child will be advised by the Head of Service about the outcome of the DOLs review via letter.

* 1. **Before the Secure Accommodation Review Panel Meeting**

The team manager holding case responsibility for the young person must, within 24 hours of the Court making a Secure Accommodation Order, inform:

1. The Corporate Director, Children and Culture and Director of Supporting Families
2. The Head of Service for SQA

The SQA admin coordinator will consult with the appropriate persons, set a date, and convene the review panel. **The review must take place within 28 days of the placement commencing.**

The social worker is responsible for ensuring the following are undertaken in advance of the review:

1. Prepare a report (using the Secure Accommodation Review Panel Report Template, appendix 2) for the SAR which has been approved by the social worker’s manager and reflects the views of those consulted about the placement, the Children’s Guardian and the secure accommodation provider. The report must include an exit plan. This must be sent to the panel chair at least 5 working days before the review
2. Provide the following information to the SQA admin coordinator and the Legal Services representative allocated to the case:
	1. Name, date of birth, sex and ethnicity of the young person
	2. Names and contact details of the Social Worker, their team manager and practice manager
	3. Contact details of the secure accommodation placement
	4. Name and address of the young person’s legal representative
	5. Whether there is any need for interpreting and translating services
3. Submit a list of invitees with addresses to the SQA admin coordinator who will circulate invitations, paperwork and arrange for an Independent Panel member. The following are required or requested to attend the review:
	1. The young person, if s/he wishes
	2. Parents or any person who has Parental responsibility for the young person
	3. Social Worker assigned to the case and their team manager
	4. LBTH legal representative
	5. Secure Unit worker
	6. Independent Visitor or advocate, if one has been appointed
	7. Children’s Guardian
	8. Any other person who the local authority considers should be involved in the meeting
4. ***Go through the contents of the report and proposed Care Plan with the child and parent(s) to ensure that they are clear about the purpose of the review.***
5. Ensure that the parents and child are given appropriate support to prepare for the review (i.e. arranging an interpreter and/or advocate.
6. Ensure that the secure unit is aware of the review date and that the secure placement staff have prepared a report of the child’s progress and stating their view as to whether the criteria for secure accommodation still apply.
7. Consider and prepare contingency plans in case the Secure Accommodation Panel decides that the criteria for secure placement no longer apply.
	1. **Holding the Secure Accommodation Review Panel Meeting**

[The Secure Accommodation Review](http://islingtonchildcare.proceduresonline.com/chapters/p_secure_accomo_review.html#purpose), and the Panel’s members, must focus on the questions and issues around the criteria for secure accommodation within the context of the child’s specific circumstances.

The Panel will consider the social worker’s report (Secure Accommodation Review Panel Report Template, appendix 2), the notes and decisions of the most recent Looked After Review and the views of:

1. the young person (if s/he wishes), so far as it is practicable
2. independent visitor / advocate, if one has been appointed
3. the relevant residential social worker from the Secure Unit
4. the allocated social worker / Youth Justice social worker where appropriate
5. the Team Manager
6. any specialist assessments that may have been commissioned e.g. psychological;
7. the local authority managing the secure accommodation in which the child is placed if that authority is not the authority looking after the child.
8. any other person whose view the Panel considers relevant

The Secure Accommodation Review does not take the place of a Looked After Review; it is distinctly different.

In all cases, the outcome of the Secure Accommodation Review must be reported to the Looked After Review.

The Independent Panel member should see the young person before the Secure Accommodation Review.

The decisions of the Secure Accommodation Review Panel must be recorded, signed by the chair and a copy loaded onto the child’s Mosaic record.

The Panel will, having regard to the young person’s welfare, consider and make decisions on whether:

1. the criteria for keeping the young person in secure accommodation still apply
2. the placement in secure accommodation continues to be necessary
3. any other type of accommodation would be appropriate

The Review Panel may also make additional recommendations with suggested timescales.

It is not sufficient, simply, to retain a child in secure accommodation to complete an assessment or treatment programme or whilst other accommodation is sought. Regard must be given to the fact that it is unlawful for the liberty of a child to be restricted unless the criteria are met, no matter how short the period of security.

Where the Panel finds that the criteria continue to apply, it should be communicated to the young person and other participants at the review. A date for the next Review Panel should be set. This must be within 3 months. The Panel should also consider the need to apply for a further Secure Accommodation Order if it will expire before the next review is due.

If an application for an extension of the Secure Accommodation Order is required, the social worker, team manager and Legal Services representative will make the necessary arrangements.

* 1. **After the Secure Accommodation Review Panel Meeting**

The Chair of the Panel will meet with the child to inform him/her of the Panel decision and the reason for reaching that decision. The Chair will also inform the child of any additional recommendations that the Panel has made. Following this, the chair will inform the members of the review and close the meeting.

The chair of the Panel will arrange for the case accountable Head of Service to be notified in writing of the review decision and recommendations (if any) as soon as is practicable.

The Committee Secretary, Democratic Services will within 10 working days inform, in writing, all those people consulted and all those present at the meeting, of the decisions of the review and the reasons for them.

For further information about the Secure Accommodation Review, please refer to [Secure Accommodation Reviews: A Practical Guide, 4th Edition 2012.](http://www.coramvoice.org.uk/sites/default/files/A4%20SAR%20Guide%204th%20Edition%202012%20v8.pdf)

1. **SUPPORT, MONITORING AND ENDING DoLs/SECURE PLACEMENTS**
	1. **Support & Monitoring of placements**

The social worker must visit the child in the placement within one week of the placement commencing and then every six weeks thereafter.

* 1. **Ending placements**

The social worker should notify CPT within one working day of the placement ending (so that the arrangements to pay the provider will be terminated) and update the child’s Mosaic record.

The social worker should also inform all those notified of the placement that the placement has ended.

1. **DEPRIVATION OF LIBERTY**

It is important to note that there are other situations where a child may be deprived of their liberty, requiring a court application to prevent this being an unlawful detention. A care order alone does not allow a local authority to deprive a child of their liberty. An application can only be made for a secure accommodation order if the child will be placed in accommodation which has been approved by the Secretary of State for this purpose ([[6]](#footnote-6)).

The key test is whether, relative to other children their age, a child is being kept under constant supervision and control,and is not free to leave their accommodation unaccompanied. This is fact specific. Clearly, this is not relevant to young children, who are of an age where they could not safely be left unattended. However, it may apply where older children have reached an age where they would ordinarily have some independence. If they are in a placement receiving constant monitoring and one-to-one supervision, where a worker will follow them if they leave the placement, this may meet the criteria of a deprivation of liberty.

One scenario is where the young person is 16 or 17 years old, but has a significant learning disability or mental health issues which mean they lack the capacity to make a decision in respect of where they should live or how to keep themselves safe in the community. The fact they may not try to leave is not relevant, if they would not be allowed to do so in any event. This may require an application to the Court of Protection under the Mental Capacity Act 2005, which only applies to individuals over the age of 16 years.

For other teenagers, it may be necessary to apply to the High Court for orders to be made under the court’s Inherent Jurisdiction, authorising the local authority to take the proposed steps intended to meet the safety and welfare needs of the child. Examples may be a young person who lacks capacity but has not yet turned 16, or a young person with behavioural issues which places them at risk of harm, but where secure accommodation is not believed to be the most appropriate care plan to meet their needs. Just as with secure accommodation, the local authority should cease to impose such deprivation as soon as the reasons justifying the deprivation of liberty no longer exist.

Social workers should make a referral to Legal for advice in the event they are proposing a care plan for a child where highly restrictive supervision arrangements will be in place.

1. **TRANSITION**

If the young person is between the ages of 14 – 17 then consideration should be given to the completion of a joint needs assessment by both Children’s and Adult’s Social Care. Section 58 of the Care Act 2014 sets out this assessment duty in relation to a child:

*“(1) Where it appears to a local authority that a child is likely to have needs for care and support after becoming 18, the authority must, if it is satisfied that it would be of significant benefit to the child to do so and if the consent condition is met, assess*—

* + 1. whether the child has needs for care and support and, if so, what those needs are, and
		2. whether the child is likely to have needs for care and support after becoming 18 and, if so, what those needs are likely to be.”

This is to ensure that there is effective person-centred transition planning to help young people and their families prepare for adulthood. Where transition planning is necessary, as a matter of good practice there should be a transition meeting at which there must be representatives from both Adult’s Social Care and Children’s Social Care and the Youth Justice & Family Intervention Service (where applicable) to enable information sharing.

1. **Appendix 1 – Pre Secure Meeting Template**

**PRE-SECURE PLANNING MEETING REPORT**

**The Children (Secure Accommodation) Regulations 1991**

**S.25 Children Act 1989**

*This form/report should be completed when, on "welfare" grounds, a child/young person is placed in a DoLS/secure accommodation under the authority of the Director of Children’s and Culture Directorate for up to 72 hours or an application for a Secure Accommodation Order is being considered. It may apply to a child/young person who is looked after, detained under PACE or remanded to local authority accommodation.*

***This form should be completed by the allocated Social Worker up to point 19.***

|  |  |
| --- | --- |
| **Young Person’s Name:** |  |
| **Date of Birth:** |  |
| **Mosaic:** |  |
| **Current Placement:** |  |
| **Social Worker:** |  |
| **Team:** |  |
| **Dare of Planning Meeting:** |  |

|  |
| --- |
| 1. **Attendance**
 |
|  |
| 1. **If young person is not attending, give reasons:**
 |
| Who is representing the young person’s views? How were these obtained? |
| 1. **If parent is not attending, give reasons:**
 |
| Who is representing the young person’s views? How were these obtained? |
| 1. **Reasons for concern (i.e. reasons for application):**
 |
|  |
| 1. **Is the young person 13 years of age or older?**
 | **YES:** |  | **NO:** |  |
| *If no, Secretary of State’s permission for placement*  | **Sought on date:** |  | **Obtained on date:** |  |
| 1. **Is the young person a Ward of Court?**

*If yes, application must be to the High Court* | **YES:** |  | **NO:** |  |
| 1. **If the young person is not a Ward of Court, what is their legal status?**
 |
|  |
| 1. **Previous admissions to secure accommodation:**
 |
| **Dates** | **From:** |  | **To:** |  |
| **Under SAO?**  | **YES:**  |  | **NO:** |  |
| **No. of hours:** |  |
| **Criteria** |  |
| 1. **Criteria for the application now being considered (tick)**
 |
| 1. Absconding and therefore likely to suffer significant harm

Or 1. Likely to injure self in any other type of accommodation

Or1. Likely to injure others in any other type of accommodation
 |
| 1. **Evidence (of absconding / significant harm / injury to self / others)**

 *For evidence of absconding, give dates of absconding and returning* |
|  |
| 1. **Witnesses (if any), with their contact details, who can testify to evidence or likelihood of further absconding, significant harm or injury:**
 |
|  |
| 1. **Aims and objectives of secure placement:**

*Including the work that you expect to be completed at the secure placement* |
|  |
| 1. **What are the anti-discriminatory considerations of race, religion, gender, disability and sexuality in relation to the proposed secure placement?**
 |
|  |
| 1. **Is the placement consistent with the young person’s Care Plan?**
 |
|  |
| 1. **What alternatives to secure accommodation have been considered?**

*Explain why they will not meet the child’s needs.* |
|  |
| 1. **What are the short and long term plans for the young person?**
 |
|  |
| 1. **Young person’s views:**
 |
|  |
| 1. **Views of Parent or Person with Parental Responsibility:**
 |
|  |
| 1. **What is the contingency plan in case no order is granted or no secure placement is available?**
 |
|  |

|  |
| --- |
| 1. **Planning meeting recommendation:**
 |
|  |
| **Chair’s signature:****(Head of Service)** |  | **Date:** |  |

|  |
| --- |
| 1. **Director of Children’s Social Care / Corporate Director’s Decision:**
 |
| *The first two options may both be ticked* Apply for SAO Place for (*max = 72*) \_\_\_\_\_\_\_ hours Do not proceed with secure accommodation plans because (*reasons*): |
| ***Signature:*** |  | ***Date:*** |  |

|  |  |
| --- | --- |
| **Secure Accommodation Order date:** |  |
| **Date(s) of SAO renewals** |  |
| **Placement Date:** |  |
| **Placement address** |  |
| **Legal Representative:** |  |
| **Date young person was informed of right to legal representation:** |  |
| **If young person refused legal representation, give reasons:** |  |
| **Children’s Guardian** |  |

|  |  |
| --- | --- |
| **Date of Secure Accommodation Panel Review:**  |  |

1. **Appendix 2 – Review Panel Report Template**

**PLACEMENT IN DoLs/SECURE ACCOMMODATION –**

**REPORT FOR THE PANEL FOR DoLS/SECURE ACCOMMODATION REVIEW**

**The Children (Secure Accommodation) Regulations 1991**

**S.25 Children Act 1989**

*A copy of the Pre-Secure Planning Report and Pre-Secure Planning meeting notes should be attached to this form. The whole form and the attachment should be sent, preferably by Lotus Notes or fax, to the Committee Co-ordinator for the Social Services Policy and Implementation Committee, to arrive* ***seven working days*** *before the date set for the Panel meeting.*

|  |  |
| --- | --- |
| **For secure accommodation review dated:** |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Young Person's Name:  |  | D.O.B.  |  | FWi No: |  |
|  |
| Name of Secure Unit:  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Date of Secure Accommodation Order: |  |  | Duration of Secure Accommodation Order: |  |  |
| Date by which further application must be made: |  |  | Date of next court appearance (if remand): |  |  |
| Date of last secure accommodation review: |  |  | Date of next secure accommodation review: |  |  |

|  |
| --- |
| ATTENDANCE |
| 1. **People invited to this review. Indicate whether present or absent with (P) or (A) after name:**
 |
| 1. **If young person is not attending, give reasons:**

 Who is representing the young person's views? How were these obtained? |
| **Date the social worker discussed review and attendance with the young person:** |  |
| 1. If parents(s) not attending, give reasons:

Who is representing the parents' views? How were these obtained?*
 |

|  |
| --- |
| CRITERIA FOR ORDER |
| 1. Do the criteria for secure accommodation continue to apply? **YES / NO**

[Note - In line with the threshold criteria as laid out in Section 25(1) of the Children Act 1989 Section 25(1)(a) states that a looked after child may only be placed in secure accommodation if it appears that:1. i. s/he has a history of absconding and is likely to abscond from any other description of accommodation,

**and** ii. if s/he absconds, s/he is likely to suffer significant harm. **or** 1. if s/he is kept in any other description of accommodation he is likely to injure himself or other persons.” ]

**4.1. Explain how the criteria apply** |
| 1. What alternative provision has been considered and rejected, and why?
 |

|  |
| --- |
| **SINCE ADMISSION** Most of these details will be supplied by staff of the Secure Unit – if there are different views, these MUST be included. |
| 1. What work is being done with the young person at the secure unit?
 |
| 1. Interaction with adults:
 |
| 1. Interaction with other young people in the secure unit:
 |
| 1. Education:
 |
| 1. Medical / psychiatric information (include details of any medication):
*
 |
| 1. Contact with parents, wider family and other significant people:
 |
| 1. Conclusions drawn by secure unit staff on the basis of the information contained in this section:
 |
| 1. What are the young person's views about and attitudes towards staying in secure

 accommodation? |
| 1. If the young person is not attending, and these views were not expressed to the person representing them here (as in 2 above), to whom were they expressed?
* .
 |
| 1. Views of previous carer of the young person staying in secure accommodation:
 |
| 1. Views of parents and wider family of the young person staying in secure accommodation:
 |
| 1. Views of other significant adults (could include independent visitor, Children's Guardian):
 |
| 1. Progress on aims and objectives of the Care Plan:
 |
| 1. What contingency plan is in place, should the welfare criteria not be met?
 |
| 20. Social Worker’s conclusions / recommendations |
| Social worker’s signature:  |  | Date: |  |
| Team manager’s signature: |  | Date: |  |

|  |
| --- |
| **THE REVIEW CRITERIA** |
| 1. The panel must consider whether:
2. the criteria continue to apply;
3. the current accommodation is still necessary
4. any other description of accommodation would be appropriate for the young person having regard to her / his welfare

 **Comments in relation to the review criteria:** |

|  |
| --- |
| **DECISION** |
|  |
| Chair’s signature: |  | Date:  |  |

1. <https://www.education.gov.uk/consultations/downloadableDocs/Statutory%20Guidance%20on%20court%20orders%20and%20pre-proceedings%2018%202.pdf> [↑](#footnote-ref-1)
2. Regulation 5 of the 1991 Regulations [↑](#footnote-ref-2)
3. Regulation 10 (1) of the 1991 Regulations. [↑](#footnote-ref-3)
4. <https://www.gov.uk/guidance/secure-childrens-homes-how-to-place-a-child-aged-under-13> [↑](#footnote-ref-4)
5. Regulation 15 of The Children (Secure Accommodation) Regulations 1991 [↑](#footnote-ref-5)
6. Regulation 3 of the Children's Secure Accommodation Regulations 1991 [↑](#footnote-ref-6)