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Placements in Secure Accommodation on Welfare Grounds

**SCOPE OF THIS CHAPTER**

This procedure applies to the placements of Looked After Children in secure accommodation under Section 25 Children Act 1989 - often referred to as being 'on welfare grounds'.

See also [Remands to Local Authority Accommodation or to Youth Detention Accommodation Procedure](https://www.proceduresonline.com/surrey/cs/p_rem_la_yth_det_accomm.html) which deals with remands to youth detention accommodation (which includes Secure Children's Homes, Secure Training Centres and Young Offender Institutions) in criminal proceedings.

**RELATED GUIDANCE**

* [Secure Accommodation (Criteria) Reviews](https://www.proceduresonline.com/surrey/cs/p_sec_accom_crit_rev.html?zoom_highlight=secure+accommodation+criteria+review+procedure)

[1. Secure Accommodation Criteria](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "secure-accommodation-criteria)

Section 25 of the Children Act 1989 sets out the 'welfare' criteria which must be met before a Looked After Child may be placed in secure accommodation.

The 'welfare' criteria are that:

* The child has a history of absconding and is likely to abscond from any other description of accommodation; and
* If the child absconds, (s)he is likely to suffer significant harm; or
* If the child is kept in any other description of accommodation (s)he is likely to injure her/himself or others.

**N.B.** only one of these two criteria above needs to be established. The welfare principle (established in Section 1 the Children Act 1989), although it remains relevant, is not of paramount consideration under Section 25.

[2. Children to Whom Section 25 Applies](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "children-to-whom-section-25-applies)

Section 25 only applies to 'Looked After' children, i.e. those children:

1. Who are accommodated (for at least 24 hours) under Section 20 Children Act 1989 (excluding those over 16 and accommodated in a community home under Section 20(5)); or
2. Who are subject to a Care Order.

Section 25 Childrens Act 1989 only relates to Secure Accommodation placements specifically approved by Secretary of State for this purpose and the placement of a young person in secure accommodation is subject to the criteria in Section 25 being met and is also governed by the Children (Secure Accommodation) Regulations 1991. In other circumstances, if a child is not 'looked after' or the placement of the child is thought to constitute a deprivation of the child's liberty, (even though it is not its primary purpose), an application would need to be made to the High Court to exercise its inherent jurisdiction. Such an approach would require careful consideration and include a full review of the placement and the child's circumstances together with the Children's Services Legal Team.

Prior to admission to Secure Accommodation, a written agreement concerning the placement should be made between the local authority and the parents to include the purpose of admission, expected duration and the arrangements for bringing the placement to an end (see also Section 7.2, Placement Planning).

[2.1 Children Who Are 16 - 17 Years of Age and Section 20 Accommodated](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "children-who-are-16-17-years-of-age-and-section-20-accommodated)

Children Act 1989 Section 20 provides:

* Section 20 (3) - Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide them with accommodation;
* Section 20 (5) - A local authority may provide accommodation for any person who has reached the age of sixteen but is under twenty-one in any community home which takes children who have reached the age of sixteen if they consider that to do so would safeguard or promote their welfare.

[Re P (Application for Secure Accommodation Order) [2015] EWHC 2971](http://www.bailii.org/ew/cases/EWHC/Fam/2015/2971.html) clarified the situation with regard to a child reaching the age of 16 years and Section 20 Accommodation:

* A child provided with accommodation under Section 20(3) Children Act 1989 may be made subject to a Secure Accommodation Order;
* However, a child provided with accommodation under Section 20(5) Children Act 1989 cannot be made subject to a Secure Accommodation Order.

Young people aged 16 or 17 years have the right to discharge themselves from Section 20(5) accommodation and, consequently, from Secure Accommodation. Nevertheless, where the local authority continues to have concerns about the safety of the young person, a decision should be made as to whether to commence care proceedings and seek an Interim Care Order and Secure Accommodation Order.

[3. Period of Secure Accommodation](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "period-of-secure-accommodation)

The use of secure accommodation should be for the minimum period necessary, following an assessment of likely risk to the child, others and public safety.

A child must not continue to have their liberty restricted once the criteria cease to apply, even if there is a Secure Accommodation Order still in existence ([see Secure Accommodation (Criteria) Review Procedure).](https://www.proceduresonline.com/surrey/cs/p_sec_accom_crit_rev.html?zoom_highlight=secure+accommodation+criteria+review+procedure)

[3.1 Without a Court Order](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "without-a-court-order)

The Designated Manager (Director of Corporate Parenting can approve such placements for up to 72 hours in an emergency. Only a Court can grant permission for placements beyond 72 hours.

A Looked After Child who meets the above criteria may be placed in secure accommodation for a maximum period of 72 hours in any 28 days period without a Secure Accommodation Order.

Note: Where a young person is under 13 the prior approval of the Secretary of State is required (see [Section 6, Placements of Children under the Age of 13 Years](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds#placements-of-children-under-the-age-of-13-years)).

Weekends/Bank Holidays

The provisions are relaxed to cover the situation where the 72 hour period expires late on Saturday, a Sunday or public holiday.

The Regulations provide that, 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:

* During that period the maximum period of 72 hours expires; and
* In the 27 days before the day on which they were placed in secure accommodation, they have 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.

[3.2 With a Court Order](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "with-a-court-order)

A Court may authorise a child to be kept in Secure Accommodation for a maximum period of:

* 3 months on the first application to the Court;
* 6 months on subsequent applications to the Court.

N.B. Any time spent in Secure Accommodation prior to the Court Order is disregarded in respect of the above time limits.

[4. Looked After Children Who May Not be Placed in Secure Accommodation on Welfare Grounds](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "looked-after-children-who-may-not-be-placed-in-secure-accommodation-on-welfare-grounds)

A Looked After child may not be placed in Secure Accommodation on Welfare Grounds where the child/ young person:

* Is under the age of 13 years, unless the Secretary of State gives prior specific approval (see [Section 6, Placements of Children under the Age of 13 years](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds#placements-of-children-under-the-age-of-13-years));
* Is Accommodated and a parent/carer with Parental Responsibility objects to a secure placement. A secure placement can then only be made via the Court - seeking an Interim Care Order and Secure Accommodation Order;
* Is detained under any provision of the Mental Health Act 1983;
* Is being kept in police protection;
* Is subject to a Child Assessment Order or Emergency Protection Order and who is being kept away from home.

See also: [Section 10, Use of Inherent Jurisdiction to Authorise a Placement Involving a Deprivation of Liberty](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds#use-of-inherent-jurisdiction-to-authorise-a-placement-involving-a-deprivation-of-liberty).

[5. Decision to Place in Secure Accommodation](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "decision-to-place-in-secure-accommodation)

[5.1 Consultation](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "consultation)

At the point that it is determined that a placement in Secure Accommodation may be required, and throughout the subsequent process of identification, planning and placement, the social worker must consult and take account of 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 the Education Service;
6. The Youth Offending Team, 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.

[5.2 Approvals](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "approvals)

Any decision to place a child in a secure placement on welfare grounds can only be made with the specific approval of the Director of Children's Services and, if made, must be notified to those consulted and the child's Independent Visitor. Where the child does not have an Independent Visitor, arrangements must be made for such an appointment as soon as practicable.

To seek the approval of the Director, the child's social worker must prepare a written report with the following information:

* The child's name, address, date of birth, ethnicity, school and names of those with Parental Responsibility;
* The grounds/concerns/criteria/aims of the proposed secure placement;
* The evidence that the criteria are met including legal advice;
* What alternatives have been tried/considered and the outcomes;
* The view of the child and the parents/others who have Parental Responsibility;
* The comments of the Team Manager;
* Chronology.

The Director of Children's Services will only approve a request to place a child in secure accommodation where the following have been considered in a Legal Gateway/Planning Meeting:

* The Criteria for Secure Placements as set out in [Section 1, Secure Accommodation Criteria](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds#secure-accommodation-criteria) are met;
* Secure accommodation is the only appropriate method of dealing with the child;
* Alternatives have been comprehensively considered and rejected;
* There is a clear view of the aims and objectives of such a placement.

Where the Director of Children's Services agrees that a secure placement on welfare grounds is appropriate, the social worker must contact Legal Services as a matter of urgency regarding the application to Court for a Secure Accommodation Order.

In relation to a child under 13 years, the approval of the Secretary of State will also be required and, after the approval of the Director of Children's Services has been obtained, a written request should immediately be sent to the Secretary of State - see [Section 6, Placements of Children under the Age of 13 years](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds#placements-of-children-under-the-age-of-13-years).

The social worker should also book a secure escort for the hearing.

Where the placement is required before there is time to obtain a Secure Accommodation Order, the Designated Manager (Secure Accommodation) can authorise the placement for up to a maximum of 72 hours.

[6. Placements of Children under the Age of 13 Years](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "placements-of-children-under-the-age-of-13-years)

A placement of a child under the age of 13 years in a secure children's home can only be made with the approval of the Secretary of State. This section summarises the procedures for obtaining approval and should be read alongside [Department for Education Guidance - Secure Children's Homes: How to Place a Child aged under 13](https://www.gov.uk/guidance/secure-childrens-homes-how-to-place-a-child-aged-under-13).

[6.1 Telephone Discussion with the Department for Education Children in Care Team](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "telephone-discussion-with-the-department-for-education-children-in-care-team)

The following information should be gathered and shared initially with DfE by telephone: 0208 142 5218 (24 hours / 7 days a week):

* The name and date of birth of the child concerned;
* The reasons why a secure placement is required;
* Confirmation of whether an available bed in a SCH has been identified;
* Details of what alternatives to a secure placement have been considered and why it is thought a secure placement is necessary;
* Confirmation of whether the child is with you or whether they are missing from care (having run away);
* Details of when you will go to court to seek a Secure Accommodation Order for the child;
* Confirmation of whether you have approached the [Secure Children's Homes](http://www.securechildrenshomes.org.uk/index.html) to submit your referral.

[6.2 E-mail Documentation will then be Requested](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "e-mail-documentation-will-then-be-requested)

During your initial phone call the DfE will provide a contact e-mail address. After the call, you must e-mail 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.
* A full written history/chronology including interactions with Children's Social Care; this should include a 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 DfE will review the documentation provided, assess the application and advise you of their decision as soon as possible. They will provide a certificate via email to confirm that the Secretary of State approves the secure placement.

[6.3 Out of Hours](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "out-of-hours)

When an application is made outside office hours, the care duty officer may be able to give verbal approval on behalf of the Secretary of State. They will only do this if the placement meets the criteria in section 25 of the Children Act 1989 and is deemed appropriate.

Approval from assistant director level or above will have to be provided and supporting documents sent by e-mail the following working day. After having assessed the documents, the DfE will send the certificate that confirms the Secretary of State's approval.

[7. Planned Placements](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "planned-placements)

[7.1 Placement Request, Identification and Approval](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "placement-request-identification-and-approval)

Where the child's social worker considers that a Looked After Child requires a secure placement, and following agreement with the Agency Decision Maker, Director of Corporate Parenting, the social worker should contact the Gateway to Resources Allocations Team who will send over the link to the Secure Welfare Unit referral form and guidance. It is essential that the referral form is completed thoroughly as it will be returned by the Secure Welfare Unit if this is not the case. The social worker will submit the referral form through the Secure Welfare Unit portal.

Each secure unit contacted will require basic information, including legal status, reasons why a secure placement is needed and details of any arson/criminal damage, violence, harmful sexual behaviour and concerns around criminal exploitation or sexual exploitation.

The terms and conditions of the placement must be approved by the Designated Manager (Director of Corporate Parenting) and included in the contract with the provider in relation to the placement.

If a placement is offered, the home is likely to need written confirmation of an undertaking to pay the stated fee and, where relevant, written confirmation of authorisation for a 72 hours placement, together with copies of the Interim Care or full Care Order and the DfE 'Certificate' for Children under 13 years. A copy of the Secure Order (when such an application has been made) will also be required in all cases.

**Note - Placements in Scotland**: [Schedule 1, Children and Social Work Act 2017](http://www.legislation.gov.uk/ukpga/2017/16/schedule/1/enacted) which came into force in May 2017, now enables local authorities to make placements in Secure accommodation under Sect 25 (1989 Children Act) by amending: the Children Act 1989; the Children's Hearings (Scotland) Act 2011 and Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions, etc.) 2013; The Children (Secure Accommodation) Regulations 1991; Secure Accommodation (Scotland) Regulations 2013 and Social Services and Well-being (Wales) Act 2014.

The issue of restrictions to local authority support for children living abroad (Schedule 2, Children Act 1989) no longer apply to a child placed in secure accommodation in Scotland under Section 25.

[7.2 Placement Planning](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "placement-planning)

Each secure unit will have its own Placement Planning Procedure and therefore, once a placement has been identified, the social worker should liaise directly with the provider to establish this.

Before the child is placed, the child's social worker will liaise with the manager of the home to arrange a Placement Planning Meeting. If this is not possible prior to the placement, it must be held in order that the Placement Plan is completed within 5 working days of the start of the placement.

The child, parents, and any other significant family members and relevant professionals should be invited to attend.

The purpose of the meeting is to share information about the child and the Care Plan, complete/update the necessary documentation about the child, plan the timing of the placement and ensure that a Placement Plan/Placement Information Record is drawn up.

The Placement Plan and associated arrangements should cover the same issues as those listed in [Placements in Residential Care Procedure.](https://www.proceduresonline.com/surrey/cs/p_place_resi_care.html?)

Following the meeting, the child's social worker will complete and arrange for the circulation of the Care Plan to the child, parents, IRO and manager of the Unit. The child's social worker and manager of the Unit will arrange for the Placement Plan/Placement Information Record to be drawn up and circulated to the child and parents.

The child's social worker must provide the child and parents with written information about the Looked After Service. The social worker must also ensure that the child is provided with information on using the authority's Complaints Procedure (see document library for Children’s Services Complaints Procedure).

The social worker should ensure that any Children's Guide or other information about the placement that is available for the child is obtained and given to them.

In all cases, the child should be accompanied to the placement by the social worker and helped to settle in.

[7.3 Notification of Placement](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "notification-of-placement)

A member of the Gateway to Resources Allocations Team will complete a Placement Notification Email (PNE) which will be sent to Children's Placements Finance Team within 2 working days (so that the appropriate arrangements to pay the provider are in place) and update the child's electronic records.

The Placement Notification Email (PNE) will also be sent to independent reviewing service, Designated Looked After Nurses Team, Virtual School and Children’s Social Care Team. The social worker must also ensure that notification of the placement is sent to the child's GP and Children's Services for the area where the child is placed.

The notifications must advise of the placement decision, the name and address of the new carers, details relating to the child's contact with parents and the arrangements related to the care and welfare of the child.

The social worker must share placement details with the child’s parents or those with parental responsibility, unless the risk assessment states that certain person/s are not to be informed.

The social worker must also ensure that the child is registered with a GP, Dentist and Optician; the child's home Integrated Care Board (ICB), and the ICB for the area where the child is placed (as this is likely to be different from the child's home ICB) should be informed also. The social worker should also ensure that a health care assessment takes place as necessary (**Note**: where a child moves into another ICB area, any treatment or service should be continued uninterrupted).

The notification should be before the start of the placement or within 5 working days.

Placement is confirmed by the Gateway To Resources Team and not the social worker. However, the social worker must make contact with the Secure Accommodation Manager within 24 hours of the placement being confirmed. ). An Out of County form also needs to be completed on LCS for any Secure Children’s Home arrangement. This form is commenced by the Gateway to Resources Allocations Team and forwarded to the social worker for completion including sign off at Director level.

The social worker must also notify the child's independent reviewing officer, and make arrangements for a review meeting within 28 days - see [Secure Accommodation (Criteria) Reviews Procedure.](https://www.proceduresonline.com/surrey/cs/p_sec_accom_crit_rev.html?zoom_highlight=secure+accommodation+criteria+review+procedure)

**Note**: The child's Secure Accommodation (Criteria) Review is distinct and separate from the Looked After Review.

[8. Applying for a Secure Accommodation Order](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "applying-for-a-secure-accommodation-order)

The child's social worker must liaise with Legal Services regarding the preparation of evidence to support the application, including a Care Plan with the aims and objectives of the placement set out and details of the intended plan to return the child to open conditions.

The social worker should prepare the child for the Court hearing, by explaining the procedure and the possible outcomes, and by advising them of the right to be legally represented at the hearing.

[8.1 The Application](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "the-application)

* Must be made on [Form C1](https://www.gov.uk/government/publications/form-c1-application-for-an-order), with [supplement C20](https://www.gov.uk/government/publications/form-c20-supplement-for-an-application-for-an-order-to-hold-a-child-in-secure-accommodation);
* Served on the appropriate respondents;
* On notice to all respondents and relevant parties, (and their legal representatives if those are known at the time of the Secure Application). These are:
  + Every person who is believed to have Parental Responsibility for the child;
  + Where the child is subject to a Care Order, every person whom it is believed had Parental Responsibility immediately prior to the making of a Care Order;
  + Any person with whom the child is living at the time the proceedings commenced;
  + The child;
  + Any person providing refuge, e.g. Voluntary Home or Children's Home certified under [Section 51(1)](http://www.legislation.gov.uk/ukpga/1989/41/section/51) and Section 52(2) Children Act 1989;
  + The local authority providing accommodation for the child, (if this is not the responsible authority).

Once made, an application can only be withdrawn with the permission of the court.

7 days before the date of the hearing (unless the court has directed a shorter period), respondents should be served with:

* A copy of the application with the hearing date endorsed;
* A notice of the proceedings with the date and place of the hearing;
* The evidence which is relied upon in support of the application for a secure order; viz:
  + The written statement relied on in support of the application;
  + Other relevant reports from specialists or experts or other documents;
  + A detailed copy of the Care Plan.

The Care Plan should detail, as far as possible, the care arrangements for the child, education provision and any other professional support, both within the Secure Accommodation and after the placement ends.

[8.2 Interim Orders](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "interim-orders)

An adjournment may be justified either for reasons of procedural fairness or in order to obtain further information. Otherwise, the court should proceed to consider the substantive application.

Where a court adjourns an application for a secure accommodation order, it may make an interim order permitting the child to be kept in secure accommodation during the period of adjournment.

The child/local authority may appeal to the High Court against the making, or refusal to make, an order.

[9. Support, Monitoring and Ending of Placements](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "support-monitoring-and-ending-of-placements)

[9.1 Support and Monitoring of Placements](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "support-and-monitoring-of-placements)

The child's social worker must visit the child in the placement within one week of the placement and then every six weeks; see procedures in [Social Worker Visits to Looked After Children Procedure.](https://www.proceduresonline.com/surrey/cs/p_sw_visits.html?)

Once the Secure Accommodation Criteria Review establishes that the child no longer meets the criteria for Section 25 Secure Accommodation, the exit plan/Care Plan should be expedited, (see [Section 3, Period of Secure Accommodation](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds#period-of-secure-accommodation)).

It is therefore important that the placement is carefully monitored with regard to the child's progress, both in terms of any additional specialist assessments that may be required and commissioned, and also in respect of the 'exit plan' that will have been established at the point of admission and developed at subsequent Looked After Reviews.

Where children are Section 20 Accommodated, then it will be particularly important to maintain visits and communication with the parents and others who have Parental Responsibility.

If the parent does not agree with the nature of the exit placement required which is being, or has been, assessed and considered as meeting the child's needs, then urgent consideration must be made as to whether Care Proceedings are required (see Care and Supervision Proceedings and the Public Law Outline Procedure in document library.

Many children's placements in Secure Accommodation go well in the light of the clear structure and regime that such Units offer and feedback from staff / specialist reports should seek to focus on: the child's insight into their behaviour; development of confidence and self esteem; relationships with other residents, staff and family; progress in areas such as education and health/emotional health (which may well have been of concern previously) etc.

9.1.1 Mobility

A sign of progress will be when the child achieves 'mobility' and is allowed out of the Unit albeit on an escorted basis and in a planned way.

The Secure Accommodation Unit will seek permission from the social worker for mobility and this should be responded to promptly. The Unit should provide details of the activity to be undertaken, together with the support and management of that to ensure the young person continues to be safeguarded and does not abscond.

Written agreement for mobility should be provided by the Nominated Officer, who should have all the necessary information, including a report on the child's progress, to make the decision.

[9.2 Ending of Placements](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "ending-of-placements)

'Timing' for the next, exit placement is often not easy but is clearly important. Planning for the exit placement should not be left until before the next Secure Accommodation Order Hearing, or when the Order lapses, given that the criteria for Secure Accommodation may no longer be met before either of these events. Progressing the exit placement should begin significantly before it is thought the child will be ready and will start by researching possible options and exchanging some information etc.

Identifying a specific placement should therefore be made in a timely way so as to ensure the proposed placement has all the relevant and most up to date information, as well as positively being able to reflect on the progress the child may have made.

Irrespective of the child's legal status, the parents/those with Parental Responsibility, should be involved and consulted about the exit placement.

Clearly, if the child is Section 20 Accommodated, then agreement with the parent is required.

Transferring to the Exit placement should be undertaken as for any Looked After Child. The Placement Plan and associated arrangements should cover the same issues as those identified in [Placements in Residential Care Procedure](https://www.proceduresonline.com/surrey/cs/p_place_resi_care.html?) or [Placements in Foster Care Procedure.](https://www.proceduresonline.com/surrey/cs/p_place_fost_care.html)

When leaving the secure accommodation begins to emerge as a possibility, a discussion with the child about transition from the secure accommodation should be undertaken and the future carers or staff should visit the child in the secure accommodation placement to ensure a full exchange of information as well as an introduction.

A visit by the child to the next placement should be undertaken where possible.

See also: [Secure Accommodation (Criteria) Reviews Procedure.](https://www.proceduresonline.com/surrey/cs/p_sec_accom_crit_rev.html?zoom_highlight=secure+accommodation+criteria+review+procedure) A manager from the Gateway to Resources Allocations Team should be invited to all Secure Accommodation Reviews.

When the child has transferred from the Secure Children’s home, the Gateway to Resources Allocations Team will do a completion of a PNE if the child has moved to an alternative placement or email if the child has returned home. (so that the arrangements to pay the provider will be terminated) and update the child's electronic record.

The same process is to be followed when the child leaves the placements as when the child commences in the secure children’s homes to ensure all those notified of the placement (including the IRO) that the placement has ended.

[10. Use of Inherent Jurisdiction to Authorise a Placement Involving a Deprivation of Liberty](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "use-of-inherent-jurisdiction-to-authorise-a-placement-involving-a-deprivation-of-liberty)

The Supreme Court has held that the inherent jurisdiction of the High Court can be used to authorise the placement of a child where the prescribed statutory requirements cannot be met and there is no practical alternative but to place the child in other accommodation.

In this situation, legal advice must be sought as a matter of urgency.

Where a local authority cannot apply for a Secure Accommodation Order under section 25 Children Act 1989 because one or more of the relevant criteria are not satisfied, it may be able to apply for leave to apply for an order depriving the child of liberty under the inherent jurisdiction of the High Court if there is reasonable cause to believe that the child is likely to suffer significant harm if the order is not granted (s.100 (4)) Children Act 1989).

It may be that section 25 does not apply because the criteria set out in section 25(1)(a) and (b) are not met. For example, a child who has no history, so far, of absconding, and who is not likely actually to injure themselves or anyone else, so does not satisfy section 25(1)(a) or (b), but who, for other good reasons to do with their own welfare, needs to be kept in confined circumstances.

Section 25 may not apply where the application is to place a child into accommodation which is not classed as 'secure accommodation' for the purposes of section 25, not being registered as such.

[Revised Practice Guidance on the Court’s Approach to Unregistered Placements (October 2023)](https://www.judiciary.uk/guidance-and-resources/revised-practice-guidance-on-the-courts-approach-to-unregistered-placements/) provides that the Court's role in deprivation of liberty ('DoL') applications, is to exercise its inherent jurisdiction to ensure that any deprivation of liberty is not itself unlawful, whether as an unlawful detention under the common law, or a breach of Article 5 of the ECHR.

The Courts, when considering a DoL application, should enquire into whether the proposed placement is registered or unregistered. If it is unregistered it should enquire as to why the local authority considers an unregistered placement is in the best interests of the child.

The Court may order the local authority to inform Ofsted/CIW within 7 days if it is placing a child in an unregistered placement.

From October 2023, supported accommodation settings for 16 and 17 year olds are required to be registered with Ofsted in accordance with the Supported Accommodation (England) Regulations 2023.

[Guidance - Placing Children: Deprivation of Liberty Orders (Ofsted)](https://www.gov.uk/government/publications/placing-children-deprivation-of-liberty-orders) - guidance for providers, social workers and placement commissioners on placing children, subject to a deprivation of liberty order (DoL), in unregistered settings provides that:

A local authority placing a child should check whether the placement is registered with Ofsted in England or CIW in Wales.

It is a legal requirement that:

* A children's home in England registers with Ofsted;
* A care home service in Wales registers with the CIW.

**It is an offence to operate or manage a children's home or care home service placement if you are not registered.**

A children's home is a setting in England that provides care and accommodation, 'wholly or mainly' for children.

A care home service is a setting in Wales that provides care and accommodation to a child because of their vulnerability or need.

An unregistered provider providing a placement for a child with a deprivation of liberty must:

* Register with Ofsted or CIW immediately - it is an offence to operate without registration.

Private providers must:

* Inform the local authority who has placed the child about the steps taken to register;
* Keep the local authority informed of the progress of the registration application at all times – the registration status may be used by the court when making decisions on continuing the deprivation of liberty.

Application for registration can be made through Ofsted’s 'priority application' process [Registering Children's Homes in an Emergency: Priority Applications](https://www.gov.uk/guidance/registering-childrens-homes-in-an-emergency-as-a-direct-result-of-covid-19-pandemic-fast-track-applications) or through the [CIW's online application process in Wales](https://www.careinspectorate.wales/register-provide-service).

Where a local authority has placed a child in an unregistered setting, Ofsted/CIW will keep the local authority informed about any relevant application to register received. Local authorities can also contact the local Senior HM Inspector (SHMI) or regulatory inspection manager to ask for an update. In Wales, they can contact [CIW's registration team](https://www.careinspectorate.wales/contact-us) for advice and support.

The court may refuse to authorise a deprivation of liberty order if the placement provider will not apply to register.

[Revised National Listing Protocol for Applications that Seek Deprivation of Liberty Orders Relating to Children under the Inherent Jurisdiction](https://www.judiciary.uk/guidance-and-resources/revised-national-listing-protocol-for-applications-that-seek-deprivation-of-liberty-orders-relating-to-children-under-the-inherent-jurisdiction/) sets out the process for the organisation and listing of deprivation of liberty orders relating to children under the inherent jurisdiction.

All initial applications will be dealt with as part of the National DoL List ('NDL'), as part of the Family Division of the High Court.

All first applications will be listed in the High Court (Royal Courts of Justice) in the NDL before a NDL judge. This will be the default position unless the local authority is requesting an immediate transfer out to the local Family Court for the first hearing.

The NDL judge will make the first order and fix the review date.

The expectation will be that, where there are, or will be, parallel public law proceedings concerning the same child/young person and/or where there has been prior judicial involvement at a local level, the case will be sent back to the local court for further reviews. In effect, the presumption will be that local Family Courts are better placed to deal with the continuation and/or regulation of the terms of a DoL order which affects a child or young person who is the subject of ongoing care or related proceedings.

If the child or young person is 16 or 17 years old and there is reason to believe they may lack capacity and would be likely to be transferred to the Court of Protection at the age of 18 years, then the court should transfer the case to the Court of Protection in accordance with the guidelines.

At the first hearing in the High Court the judge must:

1. Consider whether the order sought amounts to a deprivation of liberty within the meaning of Article 5 ECHR;
2. Consider the extent to which the restrictions sought are necessary and proportionate in relation to the perceived risks to the child or others;
3. Consider the nature of the placement and its suitability to meet the needs of the child concerned. The provision of ongoing education is crucial. It will only be in exceptional circumstances that a child will be subject to a DoLs order without education.

Where the application is being made on an urgent basis on short notice in circumstances where the local authority has not yet identified a suitable longer-term placement for the child, the judge must give careful consideration to the conditions under which the child’s liberty will be restricted in the short term pending an urgent review hearing.

Any initial directions given at the first hearing in the High Court may include the following matters:

1. Directions for the listing of any urgent hearing on transfer back to the local court including the provision of notice to other persons or parties to ongoing care proceedings;
2. The filing of further evidence;
3. Joinder of the child as a party to the proceedings allocated to a Children’s Guardian in the local area where the child lives;
4. Whether there are any particular reasons why the proceedings should remain in the High Court for the next review hearing (for example the unavailability of a suitable judge in the local court if the next review is urgent).

The draft order made at the first hearing in the RCJ ("the first order") should cover:

1. The scope of the DoL restrictions;
2. The name/identity of the placement;
3. Any specific requirements or pre-conditions;
4. Notification to Ofsted if the placement is unregulated;
5. Contact;
6. Education;
7. Appointment of Guardian;
8. Review/next hearing and before whom? (i.e. where possible the judge to whom the case has been/will be allocated in the local court should be identified in the first directions order).

[11. Further Information](https://cs-template.trixonline.co.uk/chapter/placements-in-secure-accommodation-on-welfare-grounds" \l "further-information)

Legislation, Statutory and Government Non-Statutory, Guidance

[Guide to the Children's Homes Regulations including the Quality Standards ANNEX B: Additional Information for Secure Children's Homes](https://qualitystandards.trixonline.co.uk/chapter/annex-b-additional-information-for-secure-childrens-homes?search=secure)

[Guidance - Placing Children: Deprivation of Liberty Orders (Ofsted)](https://www.gov.uk/government/publications/placing-children-deprivation-of-liberty-orders) - guidance for providers, social workers and placement commissioners on placing children, subject to a deprivation of liberty order (DoL), in unregistered settings

[Revised Practice Guidance on the Court’s Approach to Unregistered Placements (October 2023)](https://www.judiciary.uk/guidance-and-resources/revised-practice-guidance-on-the-courts-approach-to-unregistered-placements/)

[Revised National Listing Protocol for Applications that Seek Deprivation of Liberty Orders Relating to Children under the Inherent Jurisdiction](https://www.judiciary.uk/guidance-and-resources/revised-national-listing-protocol-for-applications-that-seek-deprivation-of-liberty-orders-relating-to-children-under-the-inherent-jurisdiction/)

[Statutory Guidance for Local Authorities on Court Orders and Pre-Proceedings (2014)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306282/Statutory_guidance_on_court_orders_and_pre-proceedings.pdf)

Good Practice Guidance

[Healthcare Standards for Children and Young People in Secure Settings (RCPCH)](https://www.rcpch.ac.uk/resources/healthcare-standards-children-young-people-secure-settings)