

# **Good Practice Guidance**

**The Children's Hearings (Scotland) Act 2011  
(Implementation of Secure Accommodation  
Authorisation) (Scotland) Regulations 2013**

## **Introduction**

This guidance is laid out in four sections:

- Section 1- Provides a brief overview of the key objectives of the new regulations and some background about the new secure accommodation decision making process.
- Section 2- Provides an overview of the new duties in relation to decisions to implement a secure authorisation and the duty to review the placement in secure accommodation (regulations 4, 5, 6 & 10).
- Section 3- Outlines the duties in relation to a decision not to implement a secure accommodation authorisation and rights to request a review of this decision (regulations 7, 8 & 9,).
- Section 4- Discusses the appeals process (regulations 11, 12 13, 14).

Annexes at the back of the guidance provide:

- an outline of the process for quick reference
- an example of a template that could be used or adapted for recording decisions
- a list of further guidance and reading which may be helpful for decision makers

## Section 1: Background

- 1.1 In 2009 the Scottish Government, in response to the findings of the ‘Securing Our Future Initiative’ (SIRCC 2009), outlined the following vision for the future of secure accommodation in Scotland:
- Our ultimate ambition must be to have no child in Scotland in secure care and we must actively work to reduce the need for secure care.
  - Every child in Scotland should get the best start in life and the right help when they need it in order to prevent risks turning into poor outcomes.
  - Where it is possible to meet the needs of high-risk young people safely and cost effectively in their communities, then these opportunities should be maximized.
  - For the very small number of children whose needs can only be met in secure care, then we have to provide a high quality and nurturing environment that addresses their needs.
  - A placement in secure care must be part of a planned journey through the care system (Scottish Government 2009, pg. 1).
- 1.2 The aim of the Children’s Hearings (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 (the Regulations) is to ensure that the process around the placement of a child in secure accommodation is fair, transparent and in the best interests of the child. It is expected that through the implementation of these regulations the rights of the child within the secure accommodation decision making process will be strengthened and that decision making practice will become more standardised and consistent throughout Scotland.
- 1.3 Having more robust procedures around the implementation of secure authorisations is crucial to ensuring that secure accommodation is used only when absolutely necessary. Depriving a child of their liberty infringes on one of their most fundamental human rights and impinges on associated rights to freedom of association and family life. For this reason any decision to place a child in secure accommodation can only be justified because it is in their best interests and/ or because it will protect the rights of others<sup>1</sup>.
- 1.4 Sections 83(6), 87(4) and 88(3) of the Children’s Hearings (Scotland) Act 2011 (the 2011 Act) specify the conditions which must be met in order for a Children’s Hearing to authorise the use of secure accommodation.

These conditions are:

- (a) that the child has previously absconded and is likely to abscond

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<sup>1</sup> The Scottish Government (2009) action plan for improving children’s rights in Scotland, *Do the Right! Thing*, also highlights the importance of improving secure accommodation decision making and ensuring the child’s voice is heard within all decision making processes which affect them. Available at: <http://www.scotland.gov.uk/Publications/2009/08/27111754/25>

- again and, if the child were to abscond, it is likely that the child's physical, mental or moral welfare would be at risk,
- (b) that the child is likely to engage in self-harming conduct,
  - (c) that the child is likely to cause injury to another person.

The 2011 Act specifies that one or more of these conditions must be met to authorise the use of secure accommodation.

- 1.5 The 2011 Act further specifies under section 83(5)(a), section 87(3)(a), and section 88(2)(a) that a compulsory supervision order, medical examination order, or a warrant to secure attendance may include secure authorisation only if the residential establishment where the child should be placed is named in the order. This should encourage good practice in collaborative decision making because it will be necessary for social workers or other lead professionals who are recommending a secure accommodation authorisation to a children's hearing or sheriff to investigate the options for secure placement and discuss these with a named unit and the chief social work officer prior to seeking a secure accommodation authorisation.
- 1.6 Some local authorities will continue to make use of secure referral groups or screening panels to support referring social workers or other lead professionals to identify resources and developing care plans for children who may need placement in a secure setting or alternative provision, such as movement restriction conditions. Experience from practice suggests that this is a useful way to ensure that secure accommodation authorisations are only sought when all other alternatives have been considered. The 2011 Act also places a duty on the chief social work officer under section 151(4) to remove the child from secure where it is no longer necessary for the child to remain there. This will help to ensure that children are not being kept in secure accommodation longer than is necessary to promote their best interests.
- 1.7 Sections 83(5)(c), 87(3)(c) and 88(2)(c) of the 2011 Act specifies that the children's hearing or the sheriff may only make a secure accommodation authorisation if –

Having considered the other options available (including a movement restriction condition) the children's hearing or, as the case may be, the sheriff is satisfied that it is necessary to include a secure accommodation authorisation in the order.

For this reason it is also important that social workers or other lead professionals who are recommending the use of secure accommodation can demonstrate the range of other options that have been considered and ruled out before they make a recommendation of secure accommodation authorisation.

- 1.8 Once the children's hearing (or the sheriff) makes a compulsory supervision order with a secure accommodation authorisation [section 83(6)], an interim compulsory supervision order [section 86], a medical examination order [section 87(4)] or a warrant to secure attendance [88(3)], it is then necessary

under Section 151(3) of the 2011 Act for the chief social work officer to come to a decision about the implementation of the secure accommodation authorisation. The Regulations specify what steps must be taken by the chief social work officer, head of the secure establishment and Principle Reporter when a secure accommodation authorisation is, or is not, going to be implemented. The Regulations also detail the steps a sheriff must take if there is an appeal against the decision of a chief social work officer.

## **Section 2: Decision to implement secure accommodation authorisation**

Regulation 4 of the Regulations lays out the duties upon the chief social work officer once a children's hearing or a sheriff has made an order or warrant authorising the use of secure accommodation. At this stage the chief social work officer must make a professional assessment about whether or not to implement the secure accommodation authorisation. This requires reviewing the child's situation in order to determine if an implementation of the secure accommodation authorisation is in the child's best interests and coming to a judgement about if a child continues to meet the secure conditions laid out in sections 83(6), 87(4) and 88(3) of the 2011 Act. There are four central duties laid out in the regulations in relation to a decision about whether to implement a secure accommodation authorisation:

- the duty to consult
- the duty to assess
- the duty to record and notify
- the duty to review

Each of these duties will now be dealt with in turn.

### **2.1 Duty to Consult**

2.1.1 In coming to a decision about whether to implement a secure accommodation authorisation the chief social work officer must consult and take into account the views of –

Reg 4(3)(a)

- (i) the child, taking into account the age and maturity of the child;
- (ii) each relevant person in respect of the child;
- (iii) the head of unit<sup>2</sup>.

Although the chief social work officer must evidence that they have consulted with these individuals, chief social work officers should think broadly about the issue of consultation in-order-to ensure that they understand the views and perspectives of all of the key people who may have an insight into the needs and best interests of the child in question. This could include a wide range of professionals consisting of: social workers, residential workers, youth justice workers, health care professionals, teachers, reviewing officers, and foster carers. It may also include extended family or other significant people in the child's life.

2.1.2 The central aim of consultation should be to ensure that a holistic view is taken of the child which includes their needs and strengths. The chief social work officer must be able to evidence that they have made a robust and defensible decision. A meaningful consultation process, which involves the child and all of the most significant people in the

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<sup>2</sup> Section 151 (3) of the Children's Hearings (Scotland) Act 2011 defines the 'head of unit' as the person in charge of the residential establishment containing the secure accommodation in which the child is to be placed.

child's world, is a key part of this decision making process.

**Regulation 4 (3)(a)(i) Consulting with the child and taking account of their views**

- 2.1.3 The regulations identify the duty on the chief social work officer to consult with the child, taking account of their age and maturity. In order to meet this duty the chief social work officer should utilise an approach to consultation that is appropriate to the needs of the individual child in question. This may mean adapting the way they communicate when speaking to the child or utilising an independent advocate or legal representative to ensure that the child's views are heard. Social workers, residential workers, youth justice workers or other professionals who have positive, longstanding relationships with the child may be able to offer useful suggestions about the most meaningful way to consult with the child. Wherever possible and appropriate the consultation process should involve direct discussion with the child themselves.
- 2.1.4 There is a great deal of research evidence<sup>3</sup>, as well as local and national expertise within agencies, about how to consult with children and young people about decisions which affect them. It may be helpful, for example, for the chief social work officer to consult with local children's rights officers or advocacy organisations in-order-to develop effective and child friendly consultation processes and procedures.

**Regulation 4(3)(a)(ii) Consulting with each relevant person in respect of the child**

- 2.1.5 The chief social work officer has a duty to consult and take account of the views of each relevant person. A "relevant person" includes a person who is to be treated as the child's relevant person by virtue of a decision under either section 81(3), 160(4)(b) or 164(6) of the 2011 Act. It should be clearly detailed in the child's record who the relevant person is.
- 2.1.6 The approach to consultation should be appropriate to the person(s) being consulted and consideration should be given to the communication needs of the relevant person. It may be necessary or appropriate to engage with an advocate, legal representative, or other supportive person in-order-to ensure that the relevant person has the best chance of expressing their views freely and fully.

**Regulation 4(3)(a)(iii) Consultation with the head of unit**

- 2.1.7 The chief social work officer has a duty to consult with the head of the unit which has been named in the secure accommodation authorisation. The head of the unit must also come to an independent decision about whether they will consent to the placement of the child under section 151 (3) of the 2011 Act. It is crucial that the chief social work officer consult
- Reg 6

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<sup>3</sup> See additional reading in Annex 3.

with the head of the unit as part of their own decision making process and in practice this will also involve discussions about whether or not the head of the unit is likely to consent to the placement of the child. The head of the unit should already be aware of any child who is likely to be placed on a secure accommodation authorisation naming their unit. This is because the social worker or other lead professional will need to recommend a unit to the children's panel so that the unit can be named in the authorisation. In order to recommend the unit the social worker or other lead professional needs to have discussed the needs of the child with the unit and established if there is an appropriate vacancy available or likely to become available shortly.

## **Regulation 5 (2)(a)(iii) Recording the information obtained**

2.1.8 The chief social work officer has a duty to record the information obtained in the carrying out of the consultation. In order to avoid being prescriptive or interfering with well developed local recording practices, the regulations do not specify how this information should be recorded only that it must be recorded. Careful consideration should be given to how information obtained in the consultation will be recorded so that, in the event of an appeal or audit, it will be possible to retrace the decision making process. Ensuring that secure accommodation decision making is fair and transparent is one of the key objectives of this legislation and it is the responsibility of all chief social work officers to ensure that these objectives are met, whatever recording procedures are put in place<sup>4</sup>.

## **2.2 Duty to Assess**

2.2.1 The chief social work officer must, in coming to a decision:

- Reg 4(3)(b)  
&(c)
- (i) assess whether the conditions specified in 83(6), 87(4) or 88 (3) of the 2011 Act continue to apply in respect of the child;
  - (ii) assess whether placement in secure accommodation would be in the child's best interests; and
  - (iii) take into account the decision to make the relevant order or warrant referred to in section 151(2) of the 2011 Act and the reasons for that decision.

2.2.2 In order to meet the requirements of this regulation it is necessary for the chief social work officer to review the evidence presented to the children's hearing or sheriff, and the additional information gained through the consultation process, in order to reach a judgement about whether or not the child continues to meet the following conditions –

- (a) that the child has previously absconded and is likely to abscond again and, if the child were to abscond, it is likely that the child's physical, mental or moral welfare would be at risk,

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<sup>4</sup> See Annex 2 for an example of a form which could be used for recording purposes.



- (b) that the child is likely to engage in self-harming conduct,
- (c) that the child is likely to cause injury to another person.

The chief social work officer will draw on their professional knowledge and experience in coming to this decision and should reflect critically on the views and evidence gathered during the consultation process. Evidence should be recent and the reliability of this evidence should be tested by seeking corroboration.

2.2.3 Determining the best interests of the child should, at a minimum, include a consideration of the views of the child, any relevant person(s), and the head of the unit. It might also include consideration of the child's emotional and physical needs now and in the future and any risks they may face now or in the future. The impact of any potential harms on the child's short-term and long-term wellbeing and development should be considered.

Reg  
4(3)(b)(ii)

2.2.4 In considering what would be in the best interests of the child it would also be good practice for the chief social work officer to consider whether placement in secure accommodation is appropriate to the child's needs. This means having a holistic view of the child's needs and, at a minimum, this should include the core dimensions outlined in the My World Triangle: How I grow and develop, My Wider World, and What I need from People who Look After Me<sup>5</sup>. This information should be laid out in recent reports compiled for the children's hearing by the social worker or other lead professional. However, where information is out of date, incomplete or unreliable it is the responsibility of the chief social work officer to obtain a more up-to-date account of the child's needs so that they can consider how placement in the unit named in the secure accommodation authorisation might meet those needs. Reviewing information gathered through the consultation process will also be crucial to the assessment process.

2.2.5 Information should also be sought from the head of the unit about what the secure unit will be able to provide for the individual child under consideration and how that fits with their identified needs. The chief social work officer must consider if there might be another type of placement or resource which could meet these needs.

### **2.3 Duty to Record and Notify**

2.3.1 Clear recording and notification procedures are central to ensuring that secure accommodation decision making is robust and transparent. It is essential that the chief social work officer is able to show how the process of consultation and assessment was carried out, what the final decision was and why.

2.3.2 The chief social work officer has 72 hours from receipt of the decision

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<sup>5</sup> For more information see: <http://www.scotland.gov.uk/Resource/Doc/1141/0065063.pdf>

Reg 5(1) referred to in paragraph 2.2.1 (iii) the time of the making of the relevant secure accommodation authorisation by a children’s hearing or sheriff to reach a decision about the implementation of the secure accommodation authorisation and to:

- record this decision
- and notify the people specified in the regulations.

2.3.3 If this is not done within 72 hours the chief social work officer will be deemed to have made a decision not to implement the secure accommodation authorisation. For this reason it is extremely important that decision making, recording and notification procedures are carried out in a timely manner. Timely decision making is also central to having a robust system where the best interests of the child are the paramount consideration. This process will be expedited if there has been thorough preparation, consultation and assessment with the chief social work officer and head of unit prior to the lead professional seeking a secure accommodation authorisation. For this reason each local authority should consider developing systems for reviewing cases where there is a risk of secure placement before a secure accommodation authorisation is sought through the children’s hearing system<sup>6</sup>.

2.3.4 The chief social work officer must record their decision in writing. The requirements are to record in writing –

- Reg 5(2)(a)
- (i) the decision
  - (ii) the reasons for reaching that decision
  - (iii) the information obtained in carrying out the consultation requirements at regulation 4(3)(a)

2.3.5 As was noted in the previous section relating to the duty to consult, chief social work officers may exercise discretion about where to record these details. The manner of recording should ensure that decision making is transparent and that the chief social work officer will be able to evidence the steps in their consultation, assessment, and decision making if required to do so as part of the appeal process.

2.3.6 The decision and the reasons for reaching that decision should be recorded in such a way that they are clear and easy to understand. Reasons given for the decision should be specific and should be related back to:

- the secure conditions outlined in sections 83(6), 87(4) and 88(3) of the 2011 Act,
- the identified needs of the child and how secure accommodation is best placed to meet these needs,

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<sup>6</sup> These processes for early review, which are already in place in a number of local authority areas, have been shown to be most effective where they are able to draw on multi-disciplinary perspectives including health and education. See also paragraph 1.5 in this guidance.

- and why a placement in secure accommodation is, at this time, in the best interests of the child.

2.3.7 The chief social work officer also has a duty to notify the following people about their decision –

Reg 5(2)(b)

- (i) the child where taking account of the child's age and maturity, the chief social work officer considers that the child is capable of understanding the effect of the decision;
- (ii) each relevant person in respect of the child;
- (iii) the head of unit;
- (iv) the Principle Reporter;

Reg 3 The manner of notification may include notification by electronic means so long as it is capable of being reproduced in legible form.

2.3.8 This notice must include the reasons for making the decision. This means the notice must be specific about the reasons for the decision and these must be clearly articulated to ensure that they have the best chance of being understood. In providing the decision and reasons to the child and their relevant person it is particularly important to consider how they will be supported to understand the decision and what is likely to happen next in order to minimise distress. It should be remembered that many children are afraid of being placed in a secure unit and may not have accurate information about how they are likely to be treated within a secure setting.

Reg 5(2)(c)

2.3.9 The child and their relevant person are required to be informed of their right to appeal against the decision to implement or not to implement a secure accommodation authorisation under section 162 of the 2011 Act. and that they may also request a review of the decision where the decision is not to implement a secure accommodation authorisation. Such a review is additional to the right of appeal under section 162. In order to ensure the child and their relevant person understand that they have these rights, it would be good practice to include in the notification some statement about their right to request a review of decisions and the timescales involved.

Reg 5(2)(d)

(i)&(iii)

Reg 7(3)

2.3.10 It would also be good practice to ensure that, where appropriate, those consulted in the decision making process are provided with a notification of the decision and the reasons. This is particularly true for social workers or other lead professionals who will need to ensure care plans are updated and may need to make new plans for the child, depending on the outcome of the head of unit decision.

2.3.11 The head of the unit must come to their own decision about whether to consent to the placement of a child in their secure unit. However, as the chief social work officer has a duty to consult them, it is likely that the chief social work officer will be clear about the likelihood of the head of the unit consenting to the placement at an early stage. The consultation

Reg 6

process should help both the head of the unit and the chief social work officer to clarify the needs of the child and the suitability of the placement.

- 2.3.12      The head of the unit must, in coming to a decision on whether to consent to the placement of the child under section 151 (3) of the Act, assess whether placement in secure accommodation within the residential establishment managed by the head of the unit would be appropriate to the child's needs, having regard to the establishment's statement of functions and objectives, and would not, in the opinion of the head of unit, be detrimental to other children residing in that unit.
- Reg 6  
(3)(a)(i)&(ii)
- 2.3.13      On reaching a decision, the head of the unit has a duty to record this decision and the reasons for the decision. Again, in-order-to allow for the use of effective local practices in recording, the regulations are not prescriptive about how this recording should be done.
- Reg 6(3)(b)  
(i) and (ii)
- 2.3.14      The head of the unit has 48 hours from receiving notification of the chief social work officer's decision under either regulation 5(2)(b)(iii) or regulation 7(4)(d)(iv) to send written notification of their decision and reasons for reaching that decision. Again, if processes of consultation have been run effectively it should be possible for processes of decision making, recording and sharing of recorded decisions to be delivered as part of a parallel process.
- Reg 6(3)(c)

## **2.4 Duty to review placement in secure accommodation**

- 2.4.1      Once the chief social work officer has made their decision to implement a secure accommodation authorisation and the head of unit has made their decision to consent to the placement of the child in secure accommodation, the child is placed in the secure unit.
- 2.4.2      Once the child is placed in secure accommodation either by way of a decision of the chief social work officer in accordance with regulation 6, a review under regulation 7 or by a decision of a sheriff under regulation 13(3)(a) or 14(3)(a), the chief social work officer has a duty to carry out regular reviews of the child's placement in secure accommodation in-order-to ensure that the child still meets the secure conditions, the child's needs are being met in the secure setting, and that the placement continues to be in their best interests. If a placement in the secure setting is no longer in the child's best interests then the chief social work officer has a duty to remove the child from secure accommodation under section 151(4) of the 2011 Act. The review process should help chief social work officers to meet this duty as it will ensure that they are up-to-date about the needs of the child and their progress on placement. The chief social work officer must ensure that the child is not kept in secure accommodation longer than is in their best interests.
- Reg 10
- 2.4.3      The chief social work officer must carry out the following reviews of the child's placement in secure accommodation:-

- Reg 10(2)
- (a) a first review within 7 days of the placement;
  - (b) a second review within 1 month from the date of the first review;
  - (c) thereafter subsequent reviews within 1 month from the date of the previous review
  - (d) whenever a review is requested by the child or each relevant person in respect of the child
- 2.4.4 It is important the child and the child's relevant person are informed about their right to request a review and this right should be highlighted in discussion with the child and the child's relevant person and information provided in official correspondence regarding decisions.
- 2.4.5 It is probable that the child's needs and ongoing care plan may be subject to other reviews once they are placed in secure accommodation, these may include looked after reviews and/or secure care reviews. Although the chief social work officer must carry out their own, independent review of the child's placement it would make sense for the chief social work officer to ensure they are provided with up-to-date information from these other review processes and be aware of when these are being carried out to ensure the child is not overwhelmed by a continual process of review that may be unsettling or unhelpful. Professionals involved with the child should seek to coordinate and streamline the review process where possible and appropriate.
- 2.4.6 The Regulations specify the requirements in relation to the review process. These processes mirror the initial decision making process outlined previously. For every review the chief social work officer must consult and take into account the views of:
- Reg 10(4)(a)
- (i) the child, taking into account their age and maturity;
  - (ii) each relevant person in respect of the child;
  - (iii) the head of the unit (i.e. the person in charge of the residential establishment containing the secure accommodation in which the child is placed).
- 2.4.7 The chief social work officer also has a duty to assess in the same way that they did when making their initial decision. To do this they must assess-
- Reg 10(4)(b)(i), (ii)&(iii)
- (i) whether the conditions specified in 83(6), 87(4) or 88(3) of the 2011 Act continue to apply in respect of the child;
  - (ii) the child's needs and how those needs are being met;
  - (iii) whether placement in secure accommodation continues to be in the child's best interests.
- 2.4.8 Although the child's placement in secure accommodation will, undoubtedly, minimise a number of the risks which were of concern when the initial decision to place was made, it is important for the chief

social work officer to consider what has changed since the child's placement in secure accommodation in-order-to determine if the secure conditions specified in 83(6), 87(4) or 88(3) continue to apply in respect to the child. Many secure units will utilise a system of increased 'mobility' over the duration of the child's placement in secure accommodation in order to assess progress made in behaviour and help the child to make a gradual transition towards increased independence. The chief social work officer should seek detailed information from the head of the unit about the child's progress on placement and any interventions with the child and their family or carers targeted at decreasing risk and meeting need.

2.4.9 This information, alongside the views of the child and the child's relevant person, will enable the chief social work officer to determine what the child's current needs are and how those needs are being met in the secure unit. The chief social work officer should also consider if a placement in secure accommodation continues to be in the child's best interests. The chief social work officer should consider what is being achieved in the secure placement but also what the costs of the placement may be for the child including the impact of being deprived of their liberty and separated from their family and community.

2.4.10 Once the review has been completed the chief social work officer has a duty to record in writing-

Reg  
10(5)(a)

- (i) information obtained in respect of the review;
- (ii) the chief social work officer's decision, and the reasons for reaching that decision, on whether the child should remain in secure accommodation.

Again, there is flexibility and discretion about the method/manner of recording. It is essential, however, to ensure that the process of review is robust and that this is clearly evidenced in a way that ensures transparency.

2.4.11 After each review the chief social work officer must notify the Principal Reporter and those persons consulted under regulation 10(4)(a). Where the chief social work officer makes a decision to remove the child from secure accommodation the chief social work officer must notify the child, and each relevant person of the right to appeal the decision under section 162 of the 2011 Act. The notification of this decision must be in writing as per the original decision.

Reg  
10(5)(b)  
&(c)

### Section 3: Decision NOT to implement secure accommodation authorisation

The chief social work officer, the head of the unit, and the Principal Reporter all have duties in relation to the decision not to implement a secure accommodation authorisation. These duties will be outlined in this section.

3.1 A chief social work officer may decide not to implement a secure accommodation authorisation for a variety of reasons. These reasons may include:

- that the child no longer meets the conditions laid out in sections 83(6), 87(4) and 88(3) of the 2011 Act,
- that the placement in secure is not in the best interest of the child,

It would also be good practice for the chief social work officer to consider if she/he is satisfied that all other available options have been considered.

3.2 A chief social work officer may also fail to come to a decision within 72 hours of receiving the decision to make the relevant order or warrant referred to in section 151(2) of the 2011 Act and this triggers the same procedures.

3.3 The child and each relevant person in respect of the child have the right to request a review of a decision not to implement a secure authorisation. They must do this within 72 hours of receiving notice of the decision from the chief social work officer or within 72 hours of the decision not being made. The chief social work officer should ensure that the notification of a decision not to implement informs the child and the child's relevant person of their right to request a review.

Reg 7(1),  
(2)&(5)

3.4 Where the chief social work officer receives a request for a review they must carry out this review within 72 hours of receiving the request and in the same manner as other reviews, ensuring they consult with the child, each relevant person in respect of the child and the head of the unit and conduct a full assessment.

Reg 7(3)&  
(4)(b)

3.5 As with previous decisions, the chief social work officer must record the information obtained in the review. They must also record the decision, and the reasons for reaching that decision, on whether the child should be placed in secure accommodation.

Reg  
7(4)(c)(i)  
and (ii)

3.6 The chief social work officer must also notify

Reg 7(4)  
(d)(i)-(iv)

- (i) the child where, taking account of the child's age and maturity, the chief social work officer considers that the child is capable of understanding the effect of the decision;
- (ii) each relevant person in respect of the child;

- (iii) the Principal Reporter; and
- (iv) the head of unit

- 3.7  
Reg 6
- Reg 8(1)
- 3.8  
Reg 8(3)  
Reg 8(2)  
Reg 9
- 3.9  
Reg 9(3)
- As has already been outlined in para 2.3.11, the head of the unit must make their own decision about whether or not to consent to the placement of a child in their secure unit. A chief social work officer may decide to implement a secure authorisation, while the head of unit makes a decision not to consent to the placement of the child in secure accommodation. The consent of the head of the unit is only necessary when a compulsory supervision order interim compulsory supervision order, a medical examination order, or a warrant to secure attendance which includes a secure accommodation authorisation has been made.
- If the head of the secure unit decides not to consent to the placement, the chief social work officer has 48 hours to notify the Principal Reporter about the head of unit's decision not to consent. However, if the interim compulsory supervision order or the medical examination order expires before the 48 hour period the chief social work officer does not need to notify the Principal Reporter. On receiving this notification the Principal Report has a duty to arrange a children's hearing for the purposes of reviewing the relevant order and the children's hearing must take place no later than 3 working days after the notice is received by the Principal Reporter
- The children's hearing may vary the compulsory order, interim compulsory supervision order or medical examination order but only by varying or removing the secure accommodation authorisation.



## Section 4: Appeals

A child or a relevant person in respect of the child has the right to appeal to the sheriff under section 162 of the 2011 Act against a decision either to implement a secure authorisation, not to implement a secure authorisation or to remove a child from secure accommodation. This appeal may be made jointly by the child and one or more relevant persons in relation to the child or by two or more relevant persons in relation to the child. Section 162 (6) specifies that these appeals must not be held in open court.

Regulations 11-14 outline the procedure for appeals.

- 4.1  
Reg 11  
(2)(a) Appeals to a sheriff against the decision of a chief social work officer must be made within 21 days of the decision being made. Information about this deadline for appeals should be shared with the child and the relevant person so that they are aware of the timescales involved.
- 4.2  
Reg 11  
(2)(b) Once an appeal has been made the sheriff must hear and dispose of the appeal before the expiry of the period of 3 days beginning the day after the day on which the appeal is made.
- 4.3  
Reg 11 (4) The sheriff may hear evidence from the child, each relevant person in respect of the child, the chief social work officer, the head of the unit (i.e. the person in charge of the residential establishment specified in the secure accommodation authorisation included in the relevant order or warrant made in respect of the child), the Principal Reporter and any other person who the sheriff considers may give additional material evidence before determining the appeal. If the chief social work officer has kept accurate records relating to the process of consultation, assessment and review then it should be easy to provide the sheriff with any evidence they require to inform their decision.
- 4.4  
Reg 11 (5) The sheriff may also require any other person to give a report for the purpose of assisting them in determining the appeal. This could include the lead officer or the social worker. All professionals involved with the child, and particularly those who have provided reports during the consultation and assessment process should be aware that the sheriff may request their report in the event of an appeal.
- 4.5  
Reg 12 If a sheriff is satisfied that the decision of a chief social work officer to implement a secure accommodation authorisation is justified the sheriff must confirm the decision.

In any other case the sheriff may take one or both of the following steps:-

- (a) make an order directing the chief social work officer to remove the child from secure accommodation;
- (b) make an order requiring the Principal Reporter to arrange a

children's hearing for any purpose for which a hearing may be arranged under the 2011 Act.

## **Annex 1: Outline of the Decision Making Process**

1. Children's hearing makes a compulsory supervision order (CSO) with a secure accommodation authorisation (SAA).
2. The child or a relevant person can appeal within 21 days of the decision to the sheriff against the decision of the children's hearing or the CSWO. This appeal will be heard within 3 days.
3. CSWO implements CSO to place young person in named residential establishment and considers implementation of the secure authorisation.
4. CSWO may only implement the secure accommodation authorisation with the consent the head of establishment (head of unit) of the residential establishment containing secure accommodation.
5. In determining whether to implement or not the secure accommodation authorisation the CSWO must consult with the child, each relevant person in respect of the child and the head of unit. The outcome of these consultations must be recorded.
6. In determining whether to implement or not the secure accommodation authorisation the CSWO must assess whether the conditions specified in 83(6), 87(4) or 88(3) of the Act continue to apply in respect of the child; whether placement in secure accommodation would be in the child's best interests and must take into account the decision to make the relevant order or warrant referred to in section 151(2) of the 2011 Act and the reasons for that decision.
7. The CSWO has 72 hours from receiving the decision to make the relevant order or warrant referred to in section 151(2) of the 2011 Act to reach a decision about whether or not to implement the secure accommodation authorisation, to record this decision and to notify the child taking account of their age and maturity, each relevant person in respect of the child, the head of the unit, and the Principle Reporter. If the decision of the CSWO is to not implement then the SAA falls.
8. The CSWO must record in writing – the decision, the reasons for reaching that decision and the information obtained in carrying out the consultation requirements.

9. The head of the unit has 48 hours from receiving notification of the chief social work officer's decision to send written notification of their decision and reasons for reaching that decision.
10. The child and each relevant person have the right to request a review of a decision not to implement a secure accommodation authorisation within 72 hours of notification of the decision. They may also request a review of a secure placement.
11. CSWO review process – The CSWO's decision to implement the SAA will be under continual consideration. The CSWO will formally review the child's placement in secure accommodation within seven days of the placement and thereafter at least monthly. The reviews will have regard to the decision criteria. The CSWO will notify the relevant parties of the formal review and the outcome.

**Annex 2: Secure Care Decision Making Protocol**

**(To be completed by Chief Social Work Officer or named delegate)**

Local Authority:	.....
Chief Social Work Officer:	.....
Named Delegate/s:	..... .....
Child/YP Name:	.....
DOB:	.....
Lead Professional:	.....
Name of Secure Unit	.....
Head of Secure Unit:	.....
Date:	.....

**Documents Attached**

	(please tick)	If not available please explain reasons
Referral to Secure Accommodation		
Social Work Report (most recent)		
Child's/Care Plan		
Lead Professional's update		
Other relevant documents		

**AFTER READING THE ATTACHED DOCUMENTS AND DISCUSSING, WHERE NECESSARY, WITH RELEVANT PROFESSIONALS, PLEASE COMPLETE THE FOLLOWING**

(Please circle your answer)

- In relation to the decision on whether it is appropriate for an admission or discharge to/ from Secure, have the welfare needs and potential risks of the young person been discussed with the HoU?

Yes                  No

- Is the HoU in agreement with your decision?

Yes                  No

In considering your decision have you been able to obtain the views of the child/young Person and their parent/s or recognised carers:

- Child/Young Person

Yes                  No

- Are they in agreement with your decision?

Yes                  No

- Parents or Carers

Yes                  No

➤ Are they in agreement with your decision?

Yes

No

**Following an examination of evidence about the Child's/Young Persons circumstances and consultation with the relevant professionals and family, I consider that ..... (Name of Young Person) requires / does not require (please delete) admission/retention in a Secure environment as necessary to best meet their welfare needs and for the protection of self or others.**

Please state your reasons why this Child/YP requires Secure Care and for what period of time is this likely to be required?

**OR**

Please state your reasons why this Child/YP does not require Secure Care and what alternatives have been put in place?

**Date of next Childs's Plan Meeting:** .....

**Review Date by CSWO/HoU:** .....

**Review Date of Children's Hearing:** .....

**I have read the attached, required, paperwork and discussed this case, where necessary, with the relevant professionals and make this decision in my capacity of Chief Social Work Officer or their delegate**

**Name:** ..... **Signed:** .....

**Designation:** ..... **Date:** .....

**Copies to :** Child/ Young

Parents/Recognised Carer

Childs/Young Persons Legal Representative/Children's Reporter

Lead Professional for the Child/Young Person



### **Annex 3: References and Further Reading**

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