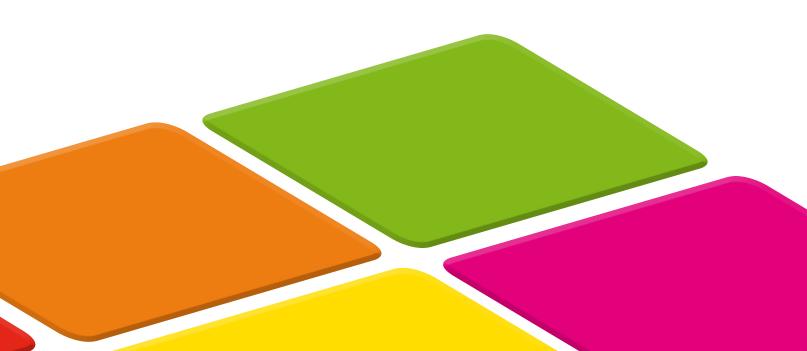
Secure Accommodation Reviews



Practical Guide

4th Edition 2012



Introduction

Welcome to the Voice 2012 revised **Secure Accommodation Reviews: A Practical Guide**. The original version of this guide was developed in partnership with the Secure Accommodation Network (SAN), of which Voice is a member. We gratefully acknowledge the assistance given by other SAN members in its development.

The Secure Accommodation Network was founded in 1992 to facilitate a sharing of ideas, knowledge and skills to improve practice and provide a support network for professionals working in secure settings. It holds regular meetings, and is at the forefront of driving forward standards, policy & practice for young people held in Secure Children's Homes (secure units).

Most local authorities only rarely need to make use of secure accommodation for the young people they look after. This can make it difficult for individuals to build up expertise in this vital area. Holding these special meetings, which by law have to be held within one month of a young person's admission to secure care, is an important task which needs to be done in accordance with very specific regulations and guidance. This booklet provides a clear step by step guide which is compliant with the relevant legislation, and with good practice principles developed over a number of years.

Independent Persons from Voice (formerly Voice for the Child in Care) have attended literally thousands of Secure Accommodation Review Panels since this service started in 1991. A wealth of experience has been built up and this, combined with examples of good practice supplied by local authorities and secure children's homes from all over the country, is made available in this booklet.

We commend it to you and hope you find it useful.

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Placement in Secure Accommodation

Secure accommodation is an essential element in the range of facilities needed by local authorities. The safety and quality of a secure children's home provides a unique setting in which the needs of some of the most vulnerable young people can begin to be addressed. Secure children's homes can offer a level of expertise, assessment skills, intensive staffing levels, and specialist treatment programmes which are simply not available in any other setting. They have proved to be the most effective way of helping some young people who present a significant risk of harm to self or others.

Restricting the liberty of young people in order to safeguard their welfare is clearly a very serious step. This should be taken only when the needs of the young person cannot be met by a more suitable placement elsewhere. However, placement of young people in secure accommodation should be regarded as a placement of choice rather than as a last resort where the identified needs of the young people require a safe and secure placement. Wherever possible, such placements should be made as part of the local authority's overall care plan.

The legal framework and practice issues relating to placements in secure accommodation can be found in Children Act 1989 Guidance and Regulations, Volume 1: Court Orders (2008) and Volume 5: Children's Homes (2011).

It should be stressed that this guide does not apply to young people who have been sentenced by the criminal courts. While they may be equally vulnerable, the law and practice in this guide does not apply to their detention.

Rationale for the use of secure accommodation

The rationale for the use of secure accommodation is quite clear. A young person should never be placed in secure accommodation because:

- No other placement is available at the relevant time
- There are inadequacies of staffing in the young person's current placement
- The young person runs away from their placement and is not likely to suffer significant harm as a result
- As a punishment.

It is important when considering the possibility of a secure placement that there is a clear consideration of the specific aims to be achieved by secure care, and how they fit into the overall care plan.

Secure placements, once made, should only be for as long as they remain appropriate to meet the needs of the young person. Care should be taken to ensure that young people are not kept in secure accommodation simply to complete a pre-determined assessment or 'treatment' programme. Clear plans need to be in place for when the young person leaves the placement to ensure continuity of care, education and other professional input, such as psychiatric support. Ideally, young people should not be admitted without planning for their discharge.

Court authorisation

Restricting a young person's liberty is such a serious matter that secure placements for more than **72 hours** can only be made with the permission of the court (see overleaf for the grounds). When hearing an application for a secure accommodation order (SAO) the court must appoint a Children's Guardian to protect the welfare of the young person, unless it considers it is not necessary to do so. The court will need to satisfy itself that evidence has been produced sufficient to meet at least one of the two statutory criteria. The court must not make a Section 25 order if the young person is not legally represented unless s/he has been informed of his/her right to legal aid and has declined to pursue it.

Having granted a secure order, if at any stage the criteria for keeping the young person in secure accommodation cease to apply, s/he should be released as the court's authorisation is merely that, an authorisation. It is important to remember that it is UNLAWFUL for the liberty of a young person to be restricted unless at least one of the two criteria continues to be met. Equally, even when a young person meets one of the criteria set out in the legislation the assumption should not be made that placement in secure accommodation is always the most appropriate arrangement.

Working in partnership with parents

For young people who are provided with accommodation on a voluntary basis under section 20 of the 1989 Children Act, a person with **parental responsibility** for a young person may **at any time** remove him/her from the Section 20 accommodation which has been provided. This includes removal from placements in secure accommodation. A commitment to working in partnership with parents is extremely important. Prior to admission 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.

Young people aged 16 plus have the right to discharge themselves from Section 20 accommodation and, consequently, from secure accommodation. Where the local authority continues to have concerns about the safety of the young person they can take care proceedings and seek an interim care order.

Secure Accommodation The Legal Criteria

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 a local authority can be kept in secure accommodation. It should be read in conjunction with the Children Act (Secure Accommodation) Regulations 1991.

Welfare Grounds

Section 25(1) Children Act 1989

- "... 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:
 - (a) i If he has a history of absconding and is likely to abscond from any other description of accommodation,

and

ii If he absconds, he is likely to suffer significant harm.

or

(b) if he is kept in any other description of accommodation 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.

Regulations 11 and 12 Secure Accommodation Regulations 1991

- The maximum period a court may authorise a young person to be kept in secure accommodation on welfare grounds is:
 - (a) Three months on the first application to the court, or
 - (b) Six months in respect of any further application to the court to continue to keep that young person in secure accommodation.

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

Young people under the age of **13 years** cannot be placed in secure accommodation without the prior approval of the Secretary of State who may include terms and conditions about placement.

Secure Accommodation Reviews

Secure Accommodation Regulations 15 & 16 set out the requirements for Secure Accommodation Reviews (SARs) and their purpose (see page 7).

Regulation 15 requires that <u>the placing authority</u> for a young person in a secure children's home holds a review within one month of the start of the placement and thereafter at intervals **not exceeding three months**. This requirement applies only to young people subject to section 25 SAOs. It does **not** apply to young people who are detained in secure children's homes as a result of having been sentenced or remanded through the youth justice system.

The Review Panel

Regulation 15 states that, "each local authority looking after a child in secure accommodation ... shall appoint at least three persons to undertake such reviews, at least one of whom **(the Independent Person)** must not be a member of, or an officer of, the local authority by or on behalf of which the young person is being looked after" (the local authority managing the secure unit in which he is accommodated).

It is good practice that ethnicity and gender should be considered when deciding the make up of the panel.

It is important that the Independent Person has received training in the role, been police checked and asked to commit to a code of practice including confidentiality of information. They should be part of an organisation which can offer ongoing training, support and accountability. Independent Persons from Voice meet all of these criteria. Voice is the main provider of Independent Persons for Secure Reviews in England and Wales.

In general, regulations and statutory guidance do not specify the composition of the non independent panel members. As a matter of good practice it is not appropriate for any person who has had direct involvement in the placing of the young person in secure accommodation to sit on the panel. This is particularly important in relation to the social worker, team manager and also the IRO (Independent Reviewing Officer). The IRO Handbook (para 4.14, 2010) clearly states that the young person's named IRO must not sit in any capacity on the panel. However, non allocated IROs may be appointed as one of the other two panel members. This acknowledgement about the role of the young person's named IRO strengthens the principle of transparency and the importance of those making this serious decision about the young person considering only the evidence before them, free from any perception that they may have pre-judged the issues. For similar reasons, staff in the secure children's home should not be appointed as panel members.

Local authorities that do not convene properly constituted panels leave themselves open to complaint or even legal challenge. Voice reserves the right not to provide an IP in instances where there are concerns about the composition of the panel.

Setting up the Review Meeting

- 1) It is the responsibility of the placing local authority, and not the staff in the secure children's home, to set up the review. This task is usually delegated to the social worker. In practice this may well be a social worker's first experience of the secure review process.
- 2) Each local authority should ensure that it has trained a group of staff, usually including Independent Reviewing Officers, to advise and support on the setting up of reviews. Information and advice can be sought directly from Voice, which has also developed a one day course "Secure Accommodation Reviews: Getting it Right in Practice." Voice contact details can be found at the back of this guide.

Purpose of the Secure Accommodation Review

The purpose of a Secure Accommodation Review meeting, sometimes called a 'criteria review', is quite specific. It is to assess whether secure accommodation continues to be necessary. It is 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; even if for practical reasons it is necessary to hold another meeting on the same day. It is important that the SAR is held first, so that the decision can inform any LAC or other review or planning meeting that may follow. It would obviously be unwise to formulate a LAC care plan and then see a Review Panel make a decision which could render it instantly untenable!

"The purpose of these meetings is only to review the issue of whether or not the conditions for retaining the child in secure accommodation still apply. The secure accommodation review is not a substitute for and does not replace the statutory review of the child's overall care plan, which must be chaired by the child's IRO."

Para 4.44, Children Act 1989 Guidance and Regulations: Volume 5: Children's Homes (2011)

Regulation 16(2) states that the panel "shall, if practicable, ascertain and take into account the wishes and feelings of:

- a. the child
- b. any parent of his
- c. any person not being a parent of his but who has parental responsibility for him
- d. any other person who has had the care of the young person, whose views the persons appointed consider should be taken into account
- e. the young person's independent visitor if one has been appointed, and
- f. the local authority managing the secure accommodation in which the child is placed if that authority is not the authority who are looking after the child."

Regulation 16(1) states that the panel must "satisfy themselves as to whether or not:

- a. the criteria for keeping the child in secure accommodation continue to apply, and
- b. the placement in such accommodation continues to be necessary, and
- c. any other description of accommodation would be appropriate for him;

and in doing so they shall have regard to the welfare of the child....".

It is also important to have information from any other relevant person, for example:

- Staff on the unit
- Social worker
- Psychiatrist/psychologist
- Education staff
- Young person's guardian where court proceedings are pending

Conduct of Proceedings

The Secure Review meeting should always be conducted separately from a care planning meeting or a six monthly LAC review. On some occasions officers of the responsible authority may have travelled a considerable distance to participate and may wish to conduct another meeting on the same occasion for reasons of expediency. This needs to be planned carefully so that everyone is clear about the separate agendas for each meeting.

The presence of too many people at meetings can be unhelpful to young people, so only those who really need to be there should be invited.

Structure and conduct of the meeting

- i. The Chair should ask that all present introduce themselves by name, position and role in the meeting. To emphasise the particular role of the **panel**, it is helpful if they sit together.
- ii. Everyone should have seen all the circulated reports (it is good practice for these to have been sent in advance).
- iii. The Chair should set out the purpose and structure of the meeting and remind those present of the secure accommodation criteria.
- iv. Evidence is presented by the social worker and a representative of the secure children's home. There should be a report from the education unit. There may also be psychiatric or psychological reports.
- v. The Review Panel should then withdraw to discuss their findings in private, before returning to report them to the meeting.

Evidence

Evidence in support of either criteria may concern the period prior to admission to the secure children's home or may be of more recent origin. This should be presented by the social worker, unit staff, and any other relevant persons.

Young people, and/or their representative, should be encouraged to express their wishes and feelings and to offer a different view or to challenge the evidence presented should they so wish.

The minutes of the meeting should record all points of view and interpretations of the facts.

(Note: A very small number of Local Authorities follow a different meeting structure, best described as a 'Tribunal model'. This typically involves each individual or agency presenting their information and views to the panel separately. There are, in our view, significant drawbacks to the use of such a model, on both logistical and good practice grounds, and therefore we do not recommend its use.)

Children Act welfare checklist

It is good practice if all those involved in the review meeting keep in mind the Children Act welfare checklist.

In making a decision about a young person's welfare, consideration should be given to:

- The wishes and feelings of the young person (with due regard given to his/her age and level of understanding);
- The physical, emotional and educational needs of the young person;
- The effect on the young person of any changes in his circumstances;
- The young person's age, gender, background and other relevant factors such as race, culture, language and religion.

Young person's involvement in the Review

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

- The young person should always have an input to the review. Someone should take the responsibility to prepare the young person for the review, usually either the social worker or the key worker in the unit. Young people should be encouraged to put something in writing to go alongside the other reports.
- New information should have been shared with the young person and parents before the meeting – there should be no surprises.
- A young person should also be offered the services of an advocate (most secure children's homes have regular visiting advocacy services.)
 Advocates can help young people prepare their contribution to the review and attend with them, or on their behalf, if they so wish. The role of the advocate is very distinct from that of an Independent Person. They should not be approached to be a panel member.
- An Independent Person trained by Voice will make a point of arriving early and offer to see the young person before the review. They will explain their role to the young person and also ensure that he or she understands the meeting and how it will be run. They will also offer to listen to the wishes and feelings of the young person and report them to the full meeting where there is no advocate to support the young person in doing this.
- The Chair should take responsibility for ensuring that the young person understands how the meeting will be conducted and needs to ensure that the meeting is conducted throughout in language that the young person can understand and feels comfortable with.
- Arrangements should be made for briefing the young person before the meeting and de-briefing afterwards.

Guidelines for person planning the Review

- 1. Check to see if your local authority already has guidelines on conducting secure accommodation review panels.
- 2. As soon as the secure accommodation order is obtained, start planning the review (you only have one month).
- 3. The review should be held in the residential establishment to ensure that the young person and staff from the unit can attend. Reviews should never be held away from the unit for reasons of 'administrative convenience.' To do so would be to contravene one of the main principles of the 1991 Regulations whereby the wishes and feelings of a young person must be heard and considered.
- 4. Contact the secure children's home to see if they have any special arrangements regarding review panels (some, for example, will only hold them on particular days of the week).
- 5. Identify the three panel members. The chair (often an Independent Reviewing Officer) and the second panel member, usually a manager of a separate Social Work team, will both normally be local authority employees. Independent Panel Members can be supplied by Voice*.

London and South East Office:

Voice 320 City Road London EC1V 2NZ (Tel: 020 7833 5792)

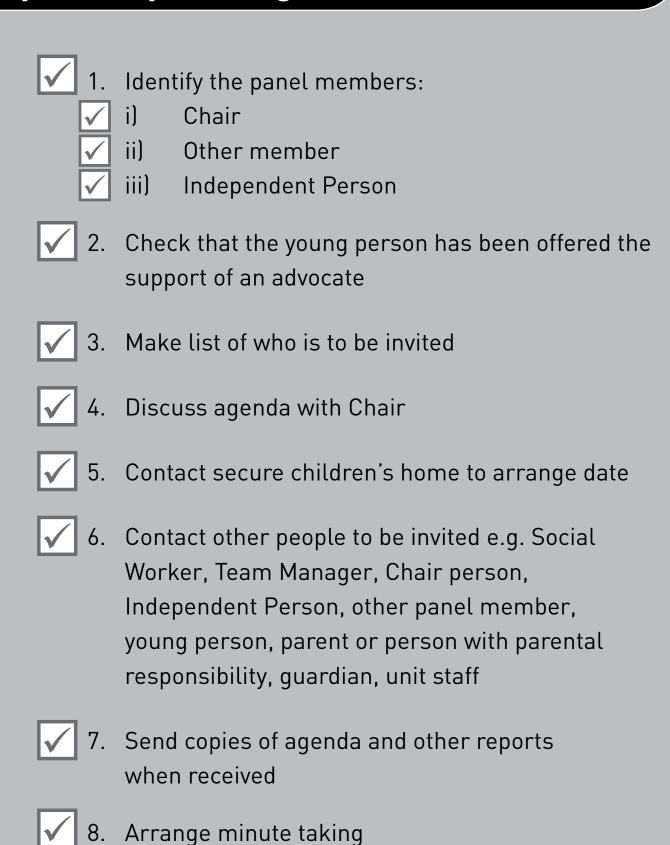
It is important that none of the panel members have had involvement in the placement decision. The social worker, their line manager, any Guardian or allocated IRO would therefore not be appropriate panel members.

- Arrange a possible date and time in discussion with members of the panel, the social worker, the young person's parents and any other people to be invited.
- 7. Send out letters giving a list of those invited to attend the meeting and the names of the panel members, confirming the date, time and place. Remember to include travel directions to venue. Ask for written reports by a specified date.
- 8. When the reports arrive, circulate to all parties. This will allow for proper preparation and help the meeting to run smoothly. If papers have to be tabled, arrange for people to see them before the meeting. Inform those attending of the format of the meeting and agenda if you have not already done so.
- 9. Arrange for a minute taker if possible.

*Voice Independent Persons

- All recruited in line with Voice's recruitment procedures, including enhanced CRB checks, two references and Warner interview.
- Fully trained in relevant legislation, issues around secure accommodation for young people and safeguarding.
- Supervised and managed by qualified service managers.
- Existing pool of highly experienced Independent Persons.

Suggested checklist for person planning the Review



Notes for Chair Persons

Purpose

The purpose of the review is to determine whether or not:

- the criteria for keeping this person in Secure Accommodation continue to apply;
- placement in Secure Accommodation continues to be necessary;

any other type of

(See page 5).

accommodation would be more appropriate.

Make sure that you have a copy of the relevant parts of the legislation

Arrangements

Find out whether the local authority for which you are conducting the review has existing guidelines as to how it should be conducted.

See Page 8 from this guide (Conduct of Proceedings).

Draw up an agenda for the meeting. Ideally, this should be discussed and agreed with the other panel members before the review proper begins.

Arrange for a minute-taker, if available.

See 'Reports which should be available to the panel', page 13.

The young person's view

Check unit staff have asked the young person if s/he wishes to attend all or part of the meeting, have prepared him or her for it and shared any reports with him or her.

Discuss with the IP in advance of the meeting the person who is most appropriate to see the young person before the meeting to ensure s/he understands the purpose of the meeting and the IP's role within it. Invite the young person to speak to the panel alone to present his or her views rather than having to sit through a big meeting if s/he prefers.

If parents are attending it is also helpful to know in advance whether there is likely to be any conflict and to know how the young person feels about their attendance.

Reports which should be available to the Panel

- a) A copy of the original report to court (if available) specifying the criteria.
- **b) Social worker's report.** This should include:

A chronology.

The background as to why the young person is in secure accommodation.

A recommendation about whether the young person should remain in secure accommodation and for how long.

An outline of the specific aims and outcomes this period in secure care is intended to achieve.

A clear and detailed exit plan.

c) A report from the secure children's home. This should include:

Profile of the young person on admission to the unit.

The programme offered by the unit to the young person, which should contain the elements of the programme agreed by the placing authority at the pre-admission/planning meeting and should include details of contact with family.

The young person's response to the programme, including the education programme, and the use of sanctions and measures of control.

Particular reference should be made to the outcomes of work addressing those behaviours which provided grounds for the Section 25 order.

The justification now for a Section 25 order. This should discuss the young person's present condition and behaviour. Details of any risk assessment and mobility programme should be given.

The need for and appropriateness of placement in the secure children's home, taking into account the young person's welfare. This section should discuss within the context of the criteria and the young person's welfare, whether the placement at the secure children's home remains necessary.

Recommendation. This section should list any recommendations that the staff of the unit wish to make to the review panel.

- **d)** A report from the **psychiatrist/ psychologist,** if available.
- e) The young person should be encouraged to make either a written or verbal contribution.

Suggested agenda and record of Review

1. Young person's details:

Date of Secure Accommodation Review:					
Secure Children's Home:					
Order expires:					
Date of SA Order:					
Date admitted to SA:					
Ethnic Origin:					
Current Legal Status:					
Date of Birth:					
M/F:					
Full Name:					

3. Purpose of meeting:

The panel should satisfy themselves that:

- (a) the criteria for keeping the young person in secure accommodation in a community home continue to apply, and
- (b) such a placement continues to be necessary and whether or not any other description of accommodation would be appropriate for him;

and in doing so they must have regard for the welfare of the young person.

Secure Criteria: Children Act 1989: Section 25(1)

- "(a) i. he has a history of absconding and is likely to abscond from any other description of accommodation; and
 - ii. if he absconds, he is likely to suffer significant harm;

or

2.

(b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons"

Suggested agenda and record of Review

4.	Present at Secure Accommodation Review Review Panel Members					
	1					
	2					
	3					
	Others attending					
	Apologies					
5.	Social Work Report					
6.	Secure Children's Home Report					
7.	Information/reports from other professionals as appropriate e.g. Psychiatrist, and/or Psychologist					
8.	Views of young person					
9.	Views of parents					
10.	Other relevant carers					
11.	Views of Guardian					
12. Secure Criteria Panel Decision Which criteria continue to apply? Does the placement continue to be necessary?						
	Reasons Recommendations					
13.	Date and time of next SAR					
Sign	ned: Date:					

After the Review Meeting

It is good practice for the minutes to be written up within a week. They should contain a specific statement confirming whether either or both of the criteria have been met. Minutes should be signed by the Chair and circulated to all those invited, including the young person and the line manager of the social worker.

Regulation 16 [3] states that "The local authority shall, if practicable, inform all those whose views are required to be taken into account under paragraph [2] of the outcome of the review, what action, if any, the local authority proposes to take in relation to the young person in light of the review, and their reasons for taking or not taking such action."

Renewal of secure accommodation

If the local authority decides that the young person should remain in secure accommodation, a date for the next review should be set, preferably with the same panel in attendance.

This must be held within three months.

Decision making

It is the responsibility of the local authority to inform the young person and all those invited to the review of the panel's recommendations. While it is rare for a local authority not to accept the recommendations of the review panel, it is also the responsibility of the local authority to make a decision about what action it proposes to take (if any) in relation to the young person following the review giving its reasons for taking such action.

Such decisions are usually made by the Director of Children's Services or a senior officer nominated by him or her.

Release from secure accommodation

Where the local authority accepts the recommendations of the review panel that the criteria for restriction of liberty no longer apply it is unlawful for the placement in secure accommodation to continue.

There may be a tension between the young person's deprivation of liberty and obtaining a suitable alternative placement in the best interests of the young person. This was considered by the courts in the case of LM and Essex County Council (1999) although no specific ruling was made. The question was whether the local authority could keep the young person in secure accommodation until the expiry of the SAO to enable suitable alternative arrangements to be made or should release the young person immediately. The judge declined to give any guidance about interpretation on the facts of that particular

case. He said that there were strong arguments either way and he was sympathetic to the local authority's need to plan but at the same time 'liberty is jealousy protected' and 'even the pragmatic may not prevail over the clear and unqualified words of the statute'.

Statutory guidance states that where the panel does not recommend further deprivation of liberty for whatever reason the local authority must hold a statutory review chaired by the young person's IRO to consider plans to move to an alternative placement (para 4.45, Children Act 1989 Guidance and Regulations: Volume 5: Children's Homes (2011)) As a matter of good practice local authorities should have considered suitable alternative placements since the beginning of the secure placement.

FAQs

- Q. Whose job is it to organise the review?
- **A.** The Social Worker or other Local Authority worker, **not** staff at the secure children's home.
 - Q. Where should the review be held?
 - **A.** At the secure children's home, so that the young person and their present carers can attend.
- Q. How soon after admission must a Secure Accommodation Review be held?
- A. Within one month of placement.
 - **Q.** How many people need to be on the panel?
 - **A.** At least 3, one of whom must be the Independent Person.
- Q. Who should not be a panel member?
- **A.** The Social Worker (or their manager), Guardian, allocated IRO, advocate or unit staff.

Quick guide to getting your first SAR Right

- Start planning now! (One month max deadline after the young person enters secure care.)
- Get up to date on the Regulations & Guidance (Children Act 1989, Vol 5 2011, Chapter 4; Children (Secure Accommodation) Regulations 1991 No. 1505)'.
 Call Voice for advice if you need it
- Be clear about roles, such as advocate,
 Independent Person (IP) and review panel chair.
- Contact and confirm with everyone who needs to attend the secure review meeting. (Contact the **IP** through the Voice office.)
- Make sure the secure children's home can host your meeting on the proposed date and time.
- Ensure the young person's views are heard and taken into account.
- What is your 'Plan B' if the criteria are not met and the young person needs to move, possibly on the day?
- Make sure your **report** for the secure panel is ready.
- Is your care plan and exit plan clear? You will be asked at the SAR!

All materials contained within this handbook are the copyrighted property of Voice and are not to be reproduced or copied in any form.

Voice also delivers a one day course designed to develop participants' understanding of the criteria for restricting the freedom of young people held in secure accommodation on welfare grounds:

Secure Accommodation Reviews – Getting it right in practice

Course Objectives

By the end of the course, participants will be able to:

- Discuss the reasons that young people are held in secure accommodation on welfare grounds
- Classify the two criteria for locking young people up
- Explain the duties of the panel
- Adopt best practice in Secure Accommodation Review meetings

Participants will explore the reasons that young people are locked up, the law surrounding secure accommodation orders, the realities of living within secure accommodation and the dilemmas that can face those in the decision making process.

The key objective is to enable participants to run and contribute

to secure review meetings in accordance with the law and best practice.

The course is divided into exercises and activities that make the learning easier to digest and encourage participants to absorb the knowledge in a practical and tangible way.

Feedback from Local
Authorities has been very positive
and indicates that the course is
particularly effective in helping to
develop protocols and to enhance
understanding and confidence in
this rather specialised but vital
area of practice.

The course, delivered by highly experienced and approved trainers, is available as a complete package to organisations to offer to between 7 – 14 participants.

For more information, please contact Voice Learning and Development on: 0207 520 3790, visit: www.voiceyp.org or email: learning@voiceyp.org



Contact details

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