

ABERDEEN CITY COUNCIL

COMMITTEE	Public Protection Committee
DATE	7 December 2021
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Secure Care – Children’s Rights
REPORT NUMBER	
DIRECTOR	Rob Polkinghorne
CHIEF OFFICER	Graeme Simpson
REPORT AUTHOR	Graeme Simpson
TERMS OF REFERENCE	1.1.1

1. PURPOSE OF REPORT

- 1.1 To advise elected members of the findings of an independent report published by the Children’s Commissioner in relation to the use of secure care and its implications for social work practice in Aberdeen City.

2. RECOMMENDATION(S)

That the Committee:

1. Note the report
And
2. Instructs the Chief Officer Social Work Officer to provide committee with an update report at the end of 2023 on the use of Secure Care and compliance with the Secure Care regulations.

3.1 BACKGROUND

- 3.1.1 In June 2021 the Children’s Commissioner published a report entitled “**Statutory Duties in Secure Accommodation: Unlocking children’s rights**”. The report was the output of a review as to the level of compliance by Local Authorities with their statutory duties when determining that it was in a young person’s best interest to be placed in secure care. In doing so the Children’s Commissioner required local authorities to provide them with

evidence in respect of children placed in secure care within a defined period of time.

3.1.2 There are three routes to a young person being placed in secure care.

a) Courts

A Sheriff determines that a young person, for the protection of him/herself or for the protection of others, should be placed in secure care. In these circumstances the Local Authority must comply with the Courts direction.

b) Children's Hearing

A Children's Hearing can recommend that for the protection of him/herself or for the protection of others, it would be in a young person's best interests to be placed in secure care. When a Children's Hearing make such a recommendation the Chief Social Work Officer (CSWO) and the Head of the Secure Unit must discuss the case and agree that the best interests of the young person would be served by such a placement.

In the circumstances where the CSWO/Unit Head don't agree with the recommendation then the young person is referred back to the Children's Hearing for them to reconsider their decision.

c) Emergency Circumstances

In the case of emergency where the young person is assessed as meeting the legal threshold to be placed in secure care and that such is in their best interests, the CSWO has the authority to place a young person in secure care. A young person's circumstances are thereafter considered by a Children's Hearing.

3.1.3 Taking away a child's liberty is one of the most serious restrictions a state can impose. It has deep and long-lasting consequences, particularly on a child's emotional and social development. For children who have been traumatised already, often as a result of abuse or neglect, the impacts of being deprived of their liberty can be devastating. It must therefore be a last resort, used for the shortest possible time, and be in the best interest of the child.

3.1.4 In light of the above the statutory regulations that surround the decision-making process of placing young people in secure care place strong emphasis on safeguarding the young person's rights. The CSWO must consult with and record the views of the young person. It must also demonstrate that they have taken their views into account in the decision making.

3.1.5 The Children's Commissioner's report recognises the challenges gaining meaningful participation from vulnerable and distressed young people within the statutory timescales. It is recognised that for some young people seeking their views may actually heighten their vulnerability with an increased risk of absconding or other types of self-harming behaviour. This stresses the need for the participation of children and young people in their planning to be at the heart of social work intervention on a continuous basis not simply centred around key decision making landmarks.

3.1.6 The Children's Commissioner's report also highlighted the statutory duty of the Local Authority in respect of b) and c) above to formally notify young people and their families of the decision made by the CSWO, including how they can appeal any decision. In this aspect the Children's Commissioner's report also emphasised the importance of ensuring young people have access to independent advocacy or representation. It is reassuring that within this context practice Aberdeen City was held up as an example of good practice, where children were informed of their rights and pointed towards supportive adults who could assist them to appeal if they wished to do so.

3.1.7 Independent advocacy and support to young people being considered for placement in a secure care setting is provided by the Aberdeen Young Person's Rights Service (AYPRS). The AYPRS will seek to build a trusting relationship with the young person prior to, during and beyond their secure care placement ensuring their views are actively heard and considered by all partners. Feedback from young people speak highly of the support provided by this service.

3.2 Implications for Practice in Aberdeen City.

3.2.1 While social work practice in Aberdeen City was considered positively within the Children's Commissioner's Report, we wanted to ensure that the identified learning was fully reflected in our practice guidance. Consequently, we have undertaken a detailed review of our Practice Guidance in relation to Secure Care. This has fully taken onboard the findings of the Children's Commissioner's report but has also a strong lens on the UNCRC which the Scottish Government intend to bring into Scots Law.

3.2.2 Engagement with Team Managers across the service is planned and this will support them to understand the changes and the associated practice implications from the updated guidance.

3.2.3 Aberdeen City has always placed very few young people in secure care. At the point of writing there are none. [The Promise - Independent Care Review](#) clearly states that "*Scotland's response to the small number of children who need secure care must look radically different*". Working with partners there is a need far more alternatives for community-based support which can meet the educational, health and care needs of young people who otherwise might be placed in secure care.

3.2.4 The Children's Commissioners report notes that no functional mechanism exists to ensure that legal duties placed on local authorities are being complied with. While there might be a role for the Care Inspectorate it is proposed that an annual secure care report be brought to Public Protection Committee to provide elected members with the necessary assurance on our legal compliance.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising out of this report.

5. LEGAL IMPLICATIONS

- 5.1 Aberdeen City has a legal duty to fully comply with the legislative requirements relating to the placement of young people in secure care. Failure to do so would have a reputational impact on the local authority but more significantly undermine the intervention to support some of our most vulnerable young people.

6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
Strategic Risk	No significant related risks.	L	n/a
Compliance	Failure to comply with our statutory duties' risks undermining the Council and social work service.	L	Managers across Children's Social Work are aware of legislative requirements and ensure compliance
Operational	Compliance with the statutory framework relating to the use of secure care provides assurance to the young person, their family and to social work staff that the use of secure care must always be considered as a last resort.	L	Leadership supports compliance with the statutory duties Council needs to deliver on ensuring participation and engagement with young people in their planning within a risk informed approach.
Financial	No significant related financial risks from this report.	L	n/a
Reputational	Failure to comply with our statutory duties' risks undermining the reputation of the Council.	L	The report evidence strong compliance with our statutory duties.
Environment / Climate	n/a		n/a

7. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
Impact of Report	
Aberdeen City Council Policy Statement	<p>Ensuring the effective planning for children and young people for whom secure care might be considered has a direct relevance to the delivery of the following policy statements contained within the Council Delivery Plan:</p> <p>2. UNICEF Child Friendly accreditation. 4. Support the implementation of Developing the Young Workforce, seek to gain the highest level of investors in young people accreditation and ensure there is a focus on supporting pupils excel in STEM subjects. 5. Appoint a mental health champion. 7. Commit to closing the attainment gap in education while working with partners across the city. 9. Promote diversion activities for youths and adults in our city with enhanced focused on our three locality areas.</p>
Aberdeen City Local Outcome Improvement Plan	
Prosperous People Stretch Outcomes	<p>Ensuring the effective planning for children and young people for whom secure care might be considered has a direct relevance to the following stretch outcomes in the LOIP:</p> <p>5. 90% of children and young people will report that they feel mentally well by 2026. 6. 95% of care experienced children and young people will have the same levels of attainment in education, emotional wellbeing, and positive destinations as their peers by 2026. 7. 95% of children living in our priority localities will sustain a positive destination upon leaving school by 2026. 7. Child Friendly City which supports all children to prosper and engage actively with their communities by 2026. 8. 25% fewer young people (under 18) charged with an offence by 2026.</p>
Regional and City Strategies	Ensuring the effective planning for children and young people for whom secure care might be

	considered is relevant to Aberdeen City Council Delivery Plan, the Local Outcome Improvement Plan, and the Children's Services Plan.
UK and Scottish Legislative and Policy Programmes	Ensuring the effective planning for children and young people for whom secure care might be considered supports the Scottish Government's drive to #KeepthePromise. This wide ranging and ambitious programme impacts on a range of statutory duties on the Council in relation to vulnerable and care experienced children including those contained in the Children(Scotland) Act 1995, Children's Hearings (Scotland) Act 2011, Children & Young People (Scotland) Act 2014, Child Poverty (Scotland) Act 2017 and Children (Scotland) Act 2020.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	This report provides members with assurance on the Council's compliance with their statutory duties relating to the placement of young people in secure care and does not require a full Equality and Human Rights Impact Assessment to be completed.
Data Protection Impact Assessment	Not required.

9. BACKGROUND PAPERS

Children's Commissioner's Report	Statutory Duties in Secure Accommodation: Unlocking ...
#KeepthePromise	#KeepThePromise - The Promise

10. REPORT AUTHOR CONTACT DETAILS

Name	Graeme Simpson
Title	CO – Children & Family Services/CSWO
Email Address	gsimpson@aberdeencity.gov.uk

