

ABERDEEN CITY COUNCIL

COMMITTEE	Education and Children's Services Committee
DATE	8 November 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Secure Care – Children's Rights
REPORT NUMBER	OPE/22/245
DIRECTOR	Angela Scott
CHIEF OFFICER	Graeme Simpso
REPORT AUTHOR	Graeme Simpson
TERMS OF REFERENCE	2.1

1. PURPOSE OF REPORT

- 1.1 The Public Protection Committee in December 2021 requested that the Chief Social Work Officer provide committee with an update report on the use of Secure Care and compliance with the Secure Care regulations.

2. RECOMMENDATIONS

That the Committee:

- 2.1 notes the report;
- 2.2 notes the 'Secure Care Pathway Review' thematic inspection currently being undertaken by the Care Inspectorate and instructs the Chief Social Work Officer to report back to committee on the findings of the inspection when it is published in Autumn 2023 and learning for Aberdeen City; and
- 2.3 requests the Chief Social Work Officer to report to committee on the provisions of the Children's Care and Justice Bill and their implications for practice in Aberdeen City.

3.1 CURRENT SITUATION

- 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 examined 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.
- 3.1.2 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.

- 3.1.3 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 Chief Social Worker Officer (CSWO) must consult with and record the views of the young person, demonstrating their views were fully considered within their decision.
- 3.1.4 The Children's Commissioner's report recognised the challenges gaining meaningful participation from vulnerable and distressed young people within the statutory timescales. It recognised that for some young people seeking their views may heighten their vulnerability with an increased risk of absconding or other types of self-harming behaviour. The report highlighted the statutory duty of the Local Authority 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 emphasised the importance of ensuring young people have access to independent advocacy or representation.
- 3.1.5 It was reassuring that Aberdeen City was held up as an example of good practice, whereby children were informed of their rights and pointed towards supportive adults who could assist them to appeal if they wished to do so.
- 3.1.6 Independent advocacy and support to young people being considered for secure care is provided by the Aberdeen Young Person's Rights Service (AYPRS). The AYPRS seeks to build trusting relationships with young people prior to, during and beyond their secure care placement, ensuring their views are actively heard and considered by all partners. Feedback from young people speaks highly of the support provided by the AYPRS.

3.2 Update

- 3.2.1 While social work practice in Aberdeen City was considered positively within the Children's Commissioner's Report, a detailed review of our Practice Guidance in relation to Secure Care was undertaken ensuring identified learning was incorporated into our practice guidance. This review also ensured our guidance was fully reflective of United Nations Convention for the Rights of the Child.
- 3.2.2 Aberdeen City has over the past number of years placed very few young people in secure care. Since the report to Committee in December 2021 only one young person has been placed in secure care for a brief period. (At the point of writing no young person from Aberdeen City is in secure care.) In this instance the young person was notified of their rights and was supported to exercise these by appealing the subsequent decision of the Children's Hearing to Court.
- 3.2.3 [The Promise - Independent Care Review](#) states "*Scotland's response to the small number of children who need secure care must look radically different*". The [Children's Care and Justice Bill](#) currently going through the Scottish parliament recognises the need for alternative community-based support options which can meet the educational, health and care needs of young people who otherwise might be placed in secure care. Details on what such support looks like have yet to be set out.

3.2.4 The Children’s Care and Justice Bill further proposes that the circumstances of 16- and 17-year-olds, whose behaviour has brought them into conflict with the law, should be considered via the Children’s Hearing System and not through the adult justice system. Consequently, secure care will be considered as an option for the small number of 16 and 17-year-olds who might previously been placed within an adult prison setting.

3.3 Inspection Activity

3.3.1 In July 2022 the Care Inspectorate intimated their intention to undertake a national review of the experiences of young people in, or on the edges, of secure care accommodation. The review commenced in August 2022 and will conclude in August 2023.

3.3.2 As well as meeting directly with Chief Social Work Officers the review will identify and track 30 young people from across Scotland. This will involve meeting with the young people, their parents/carers, lead professional and other staff involved in their care, at various points over the year. They will also review key documents in relation to each young person.

3.3.3 A national report will be published in Autumn 2023 which will identify learning for all local authority areas and secure providers to consider.

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. ENVIRONMENTAL IMPLICATIONS

6.1 There are no environmental implications arising out of this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No significant related risks.		L	Yes

Compliance	Failure to comply with our statutory duties' risks undermining the Council and social work service.	Managers across Children's Social Work are aware of legislative requirements and ensure compliance	L	Yes
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.	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.	L	Yes
Financial	No significant related financial risks from this report.		L	Yes
Reputational	Failure to comply with our statutory duties' risks undermining the reputation of the Council.	The report evidence strong compliance with our statutory duties.	L	Yes
Environment / Climate	No significant environmental risks		N/A	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
Impact of Report	
Aberdeen City Council Policy Statement	Ensuring the effective planning for children and young people for whom secure care might be

	<p>considered has a direct relevance to the delivery of the following statements contained within the Council Delivery Plan:</p> <ul style="list-style-type: none"> • Ensure the Council follows best practice as a corporate parent to get the best outcomes for looked-after young people, those in kinship care and those with additional support needs such as autism, developmental disorders or mental health problems • Continue to seek to support young people to receive care in Aberdeen, through fostering, adoption and other services and seek to reduce “out of authority” placements. • Commit to realising the potential of each individual, by seeking to widen curriculum choice and implement progressive choices. • Seek to make Aberdeen a UNICEF Child Friendly City
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.</p> <p>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.</p> <p>7. 95% of children living in our priority localities will sustain a positive destination upon leaving school by 2026.</p> <p>8. Child Friendly City which supports all children to prosper and engage actively with their communities by 2026.</p> <p>9. 25% fewer young people (under 18) charged with an offence by 2026.</p>
Regional and City Strategies	<p>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.</p>
UK and Scottish Legislative and Policy Programmes	<p>Ensuring the effective planning for children and young people for whom secure care might be considered supports the Scottish Government’s</p>

	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.
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9. 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.

10. BACKGROUND PAPERS

Report to Public Protection Committee 7 December 2021	Secure Care – Children’s Rights http://councilcommittees/documents/s126969/10.4 Committee Report PPC Secure Care Nov 21 Final.pdf

11. REPORT AUTHOR CONTACT DETAILS

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