

Name: [REDACTED]

Membership no: [REDACTED]

1. Competency: 1
Undertake legal research.

Learning Outcome: 1.4

2. Evidence provided:
Research into Secure Accommodation Orders

(Pages 75-83)

3. Outline how the evidence demonstrates you meet the outcome

The situation giving rise to the research: I was dealing with a matter where a court application was needed to be made for a Secure Accommodation Order.

Sources used: – legislation.gov.uk, justice.gov.uk and the family court practice.

Research used: I located the relevant information from the above sources.

Apply findings to the matter: Having researched the matter, I was able to advise the clients that we could apply to extend the current Order for the maximum period i.e. six months.

I also advised that they needed to ensure to provide details of the escape of the child after Court in her statement. As his actions gave good evidence in support of s25(1)(a)(i) in respect of his future risk of absconding and the need for the Order.

4. Reflection and evaluation (what you learnt from the activity you undertook to meet the outcome). Note: you may want to complete this section at a later date once you have had time to reflect on your practice and experience.

This case demonstrated to me the need to widen my knowledge of childcare matters following my move from private practice to local government. The test for obtaining such an order is clearly defined in statute and therefore it is important to have appropriate understanding of the different parts to enable me to advise client's accordingly.

5. Completion date: Nov 2014

6. Signed (applicant)

[REDACTED]

Date:

21/7/15

7. Signed (supervisor)

[REDACTED]

Date:

14/7/15

[REDACTED]

Tel: [REDACTED]
Fax: [REDACTED]

[REDACTED]

Please Date 8.01.15

Our Reference: [REDACTED]

This is a legal privileged document and should be placed in the confidential legal folder in Carefirst only

PRIVATE AND CONFIDENTIAL - NOT TO BE DISCLOSED

MEMORANDUM

To: SW
ADDRESS

G

I write further to our recent telephone discussion in respect of the above.

As you know, the Secure Accommodation Order that G is presently subject to expires on the 2nd January 2015. You have already provided instructions that you wish to apply to extend this Order for the maximum period i.e. six months.

I have advised you that we will need to apply back to Court to extend the Order and the application is essentially a fresh application with supporting documents. This will be a care plan and statement and an updated chronology. The documents need to be prepared in advance of the date that the Order is due to expire and we have discussed that we should be looking at you getting the papers to me in early December so we can then ask the Court to consider the application. You have confirmed that you will be able to get the documents to me either the first or early into the second week in December.

You have also informed me that you will be on leave from the 19th December 2014 and therefore have discussed that we will need to seek a Court hearing ahead of this time. However, the only issue is that G's next Secure Accommodation Review and LAC review are not due to take place until the 17th December 2014, and I have advised you that these meetings need to be held to consider the Order and the application to renew. Ideally, it would have been better if the meetings could have taken place earlier in December and then we would have had this information available in good time for the hearing. I have advised you that I believe that G's solicitor and the Court will wish to know that the plan has been considered by all the professionals involved with G at such meetings. As the last SAR

and LAC review were at the end of October, there is likely to have been a lot of changes between then and the next meeting and whilst the decision at the last meeting was to seek a renewal of the Order, a further meeting needs to take place to consider the changes etc and discuss the updated position. 71

We have discussed that it might be possible to issue the application and request that the hearing takes place following the 17th December but before the 19th December so we will be able to provide updated information to the Court following the SAR and LAC reviews. I do however worry that this is only a couple of days and it may not be possible for the Court to list a hearing during this time. If this is not possible, we will need to provide as much information as possible to the Court and the views of the other professionals.

You have confirmed to me that the firm plan is now for G to remain in ? where he appears to be entering a period of stability. G is engaging with CAHMS and the support they are providing. This work is undertaken on Mondays and Fridays. He is also engaging in drug intervention work. I have also seen your recent email to confirm that G has been seen by an Advanced Psychology Practitioner who has provided an interim report. It appears that his work may give valuable information regarding the work that will be carried out with G at the unit and what he will need when he leaves with regard to placement and therapy. This information will be important for the next Court application as I have advised you that the Court will be looking at what work has been done with G whilst he is in the unit, and timescales for him remaining there etc. I have suggested that you work through the initial care plan and look at what was said would be done and update i.e. has the work been done/started and timescales, if things haven't been started, why not.

You also need to ensure that you provide details of the escape after Court in the statement. His own actions following the hearing provides good evidence in respect of G' future risk of absconding and the need for the Order.

Do not hesitate to get in touch if you have any further questions.

Kind regards.

Yours sincerely


Assistant Legal Officer
for Assistant Director – Legal, Governance & Monitoring

Secure Accommodation Section 25 Children Act

If the young person is subject to a Care Order or Interim Care Order the allocated Social Worker's Local Authority should apply.

If the child is under thirteen years old the Secretary of State's permission is required

Grounds for secure accommodation met (See below)

If the young person is accommodated under S20 Children act 1989 and is;
-Under sixteen-parental agreement to secure accommodation is required
-sixteen or over- an interim care order or Emergency Protection order is re-

If the young person is a ward of court the judge will be required to make a direction for the child to be placed in secure accommodation.

Local Authority secure children's homes should be contacted to gain provisional agreement to a placement. Details are available on the Secure Accommodation Network's website <http://www.secureaccommodation.org.uk/>

Application made to the Family Proceeding court initially for up to three months order. In emergency the Assistant Director may apply the 72hour rule and authorise in writing the holding of a young person for up to 72 hours.

Section 25 of the Children Act 1989 sets out the criteria, which must be met before a child can be placed in secure accommodation. It provides that a child being looked after by the local authority may not be placed, and if placed, may not be kept in a secure accommodation unless it appears:
(i) that he/she has a history of absconding and is likely to abscond from anything other than secure accommodation;
and
(ii) if he/she absconds he/she is likely to suffer significant harm (Section 25(1)(a));
or
(iii) if he/she is kept in anything other than secure accommodation he/she is likely to injure him/herself or other persons (Section 25 (1)(b)).
If the criteria are satisfied, there is a mandatory duty on the Court to make the order. Re: M (Secure Accommodation Order) (CA) (1995) 1 FLR. 418

Letter from Deputy Director or above authorising use of a secure placement without a court order. Letter should be on headed paper.

To The Secure Children's Home Manager

Having considered the case of Child's full name Date of BirthI authorise the use of a secure placement for up to 72 hours under 10(1) of *The Children (Secure Accommodation) Regulations 1991*.

I authorise payment for this placement with immediate effect.

Signature

Full name

Position held

A full billing address and whether a purchase order number will be required to submit invoices should be supplied with the request.

Step-by-step guide for local authorities applying for the approval of the Secretary of State to place a child under the age of 13 in secure accommodation

Step 1): Contact the Department for Education (DfE).

Details are shown below. Calls should be made **before 5pm**, and preferably as early in the day as possible. Early notification of a possible application is helpful, even if a final placement decision has not yet been made.

If you need to make an emergency placement **after 5pm** please call the out of hours number (see below), and request to speak to the **Children in Care Duty Officer** (first point of contact) 0207 783 8086

Children in Care Duty Officer 0207 783 8079

DfE Public Communications Unit 0370 000 2288

If either of the above officials are unavailable during the day please call this number and ask to speak to someone in the Placements Unit, Children in Care Division.

Out of hours contact 0207 340 7057

If you are calling after 5pm please call this number and ask to speak to the Children in Care Duty Officer.

Fax number 0207 925 6183

Please do not send a fax without first contacting the Department to confirm someone is there to receive it.

Step 2): Provide initial details to the DfE official over the telephone.

You will be asked to provide:

- the name and date of birth of the child concerned:
- a verbal summary of the reasons for the secure placement:
- confirmation of whether a bed in a secure children's home has been identified and is available:
- confirmation of whether the child is currently with the local authority or missing from care (having absconded):
- details of when the local authority is intending to go to court to seek a secure order
- an explanation as to why a secure placement is necessary:
- details of what alternatives to a placement in a secure children's home have been considered and why these were rejected.

Step 3): Submit written paperwork to [redacted] by email (or fax).
Following your phone call to the [redacted] you will be asked to provide:

- a full written history/chronology of the child:
- a contemporary care plan that covers the period of the secure placement. The care plan should include the aims and objectives of the secure placement and, where possible, the prospective exit strategy from secure accommodation.
- agreement in writing at **Assistant Director level or above** seeking the approval of the Secretary of State.

If you are seeking a secure placement **out of hours** it may not be possible for you to submit the relevant paperwork. Greater detail will be taken during the initial telephone discussion and **you will be required to provide verbal assurance** that the Assistant Director or above has agreed to the secure placement.

Step 4): Consideration of the application.

The DfE official will then discuss the information provided with one of the specialist secure accommodation inspectors at Ofsted. It is possible the Ofsted inspector may contact you to discuss the case further.

Step 5): The [redacted] will advise you of the Secretary of State's decision.

Where an application is approved, a letter and certificate will be issued to the local authority on the same day via email. The signed, hard copy of the documents will be posted to the Assistant Director or equivalent that supported the application on behalf of the local authority.

Where applications are made **out of hours**, the approval letter and certificate will not be issued until the next working day. Verbal agreement will be given over the telephone.

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Children Act 1989

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25 Use of accommodation for restricting liberty.E+W+S

(1) Subject to the following provisions of this section, a child who is being looked after by a 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—

(a) that—

(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

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

(2) The [F1 appropriate national authority] may by regulations—

(a) specify a maximum period—

(i) beyond which a child may not be kept in secure accommodation without the authority of the court; and

(ii) for which the court may authorise a child to be kept in secure accommodation;

(b) empower the court from time to time to authorise a child to be kept in secure accommodation for such further period as the regulations may specify; and

(c) provide that applications to the court under this section shall be made only by local authorities.

(3) It shall be the duty of a court hearing an application under this section to determine whether any relevant criteria for keeping a child in secure accommodation are satisfied in his case.

(4) If a court determines that any such criteria are satisfied, it shall make an order authorising the child to be kept in secure accommodation and specifying the maximum period for which he may be so kept.

(5) On any adjournment of the hearing of an application under this section, a court may make an interim order permitting the child to be kept during the period of the adjournment in secure accommodation.

(6) No court shall exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless, having been informed of his right to apply for [F2 representation funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service] and having had the opportunity to do so, he refused or failed to apply.

(7) The [F1 appropriate national authority] may by regulations provide that—

(a) this section shall or shall not apply to any description of children specified in the regulations;

(b) this section shall have effect in relation to children of a description specified in the regulations subject to such modifications as may be so specified;

(c) such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the regulations may be placed or kept in secure accommodation.

(8) The giving of an authorisation under this section shall not prejudice any power of any court in England and Wales or Scotland to give directions relating to the child to whom the authorisation relates.

(9) This section is subject to section 20(8).

Annotations: 

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Annotations are used to give authority for changes and other effects on the legislation you are viewing and to convey editorial information. They appear at the foot of the relevant provision or under the associated heading. Annotations are categorised by annotation type, such as F-notes for textual amendments and I-notes for commencement information (a full list can be found in the Editorial Practice Guide). Each annotation is identified by a sequential reference number. For F-notes, M-notes and X-notes, the number also appears in bold superscript at the relevant location in the text. All annotations contain links to the affecting legislation.

Extent Information

E1S. 25 extends to England and Wales with the exception of s. 25(8) which extends to Great Britain. See s. 108(11)(12).

Amendments (Textual)

F1 Words in s. 25(2)(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 15**

F2Words in's. 25(6) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 45** (with 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(a)(ii)** (subject to arts. 3, 4 and with art. 5)

Modifications etc. (not altering text)

CIS. 25 excluded (14.10.1991) by S.I. 1991/1505, **reg. 5(1)**.

S. 25 excluded (14.10.1991) by S.I. 1991/1505, **reg. 5(2)**.

S. 25 modified (14.10.1991) by S.I. 1991/1505, **reg. 6(1)**.

S. 25 modified (14.10.1991) by S.I. 1991/1505, **reg. 7(1)**.

Commencement Information

IIS. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

