

Secure Care National Standards – SCRA Consultation Response
April 2019



Secure Care National Standards for Scotland

April 2nd 2019

1. Do you agree the National Secure Care Standards should align and sit alongside the Health and Social Care Standards?

Yes

Please give the reasons for your response in the box below

The Secure Care standards align with the Health and Social Care standards and for children and families it is an approach which is clear, focussed and centred on them and their experience.

It recognises that young people are active participants in their own care journey and that secure care does not just happen to them.

It recognises that they have rights and a voice and respects both of these things. It also recognises clearly that young people will not stay in secure care for ever – and that there needs to be an effective and managed plan in order for them to leave secure care safely and positively. Locating these standards within the wider context of Health and Social Care therefore makes sense.

2. Do you agree that when the standards are implemented they will help improve outcomes for children and young people in or on the edges of secure care?

Don't know





If you have identified an issue please provide details giving your reasons for your response below:

SCRA was involved in the development of these standards via the Secure Care Board Pathways group and are fully committed to their successful implementation. We recognise however, that standards on their own are not what will deliver these improved outcomes. We think that the how, the who, the when in relation to the implementation and assessment of the standards is just as crucial as the standards themselves – there is further work required perhaps in the operationalisation of the standards about specific leadership for individual aspects between providers, local authorities, NHS Boards, Hearing system partners etc. which will add to the likelihood of sustainable positive outcomes.

3. Do you think any of the standards will *not* help to improve outcomes for children and young people?

No

If required please provide your comments below giving your reasons.

Decision making around Secure Care can already be complicated and unclear in Scotland. The implementation of the standards, the scrutiny of their delivery and leadership and accountability for making them happen will all be key ingredients for success and will avoid any further muddying of the secure care waters could be an unintended consequence of these standards. Additional thinking may need to be given to how the standards will be implemented, by whom and when and how they will be evaluated/scrutinised. Unambiguous expectation on sustained delivery from Scottish Government will also be key here, we have embarked on similar exercises before in secure care Scotland only to find that the concerted drive and implementation focus has dissipated over time and the benefits have not been realised, this cannot be allowed to happen again.





Is there anything else you would like to tell us or comment on regarding the secure care national standards? *Please complete the box below.*

In Scotland the successful operation of secure care is already a balancing act. The secure estate operates for young people who are subject to a custodial sentence from the court as well as for young people who require secure care as a result of welfare concerns. This means that there is a dual ethos behind decisions to place a young person in secure care which can be difficult to manage within the same unit.

In Scotland welfare concerns can also include a young person's offending and other behaviours if they have been dealt with through the Children's Hearings System. There is a symbiotic relationship between local authority, secure provider and decision maker (whether the court, a Sheriff or a Children's Hearing) and the decisions to authorise and implement secure accommodation are taken separately (if it is not part of a custodial sentence).

This can be a difficult legislative area for professionals to navigate and can be very confusing and convoluted for children and families. It is also an area which can work at capacity, with secure care bed availability being updated throughout each day. The combination of availability and the way in which decisions about secure care are made and implemented can mean that it is difficult to plan for young people in a clear and definite way. It also happens to be an area where finding accurate information quickly is not easy – for example, the number of young people in secure care who are subject to a custodial sentence from Scottish (or other) Courts and the number of young people in secure care as a result of a secure accommodation authorisation on a Compulsory Supervision Order (or interim order) from a Children's Hearing. This is because the situation fluctuates daily and indeed throughout the day – but is indicative of the complexities of this area of work.

As a result, SCRA strongly supports the approach of the new Secure Care Standards which are founded in Human Rights and Wellbeing and which focus on what really matters - the young person's experience of secure care, regardless of their pathway there.





SCRA agrees that Human Rights are central to our work with children and families and that Secure Care Standards are required for what is a critical high-tariff intervention with potential life-long consequences for a young person. For children subject to secure accommodation as a result of a decision in a Children's Hearing the use of secure should improve a situation, not make it worse or more complicated. For children who are subject to secure accommodation as a result of a custodial sentence SCRA believes that secure should be firmly rooted in a philosophy of rehabilitation and reintegration of the sentenced young person – so that they become a responsible citizen who is able to make a positive contribution to society on release. SCRA would therefore like to support further work in recognition of the implications of secure accommodation for PVG listing – particularly in the 'Journey Stage After'.

SCRA agrees that the principles and format of the Health and Social Care Standards are relevant and appropriate when applied to Secure Care, and that all of the principles as listed below make sense.

- 1) Dignity & Respect
- 2) Compassion
- 3) Be Included
- 4) Responsive Care & Support
- 5) Wellbeing

SCRA also agrees with Rami Okasha's evidence to the Equalities and Human Rights Committee, 26th April 2018:

"For different types of settings, we are developing clear illustrations of the quality that we expect in how people are treated, how their needs are assessed and met, and the extent to which people who are in a residential setting have the opportunities to go outside and enjoy the activities that they used to love before they came into that residential setting."





This provides a clear challenge for young people in a secure residential setting – but this challenge should not be insurmountable.

It may be, however, that the agreement of these Secure Care Standards forces a re-configuration of Scotland's use and scrutiny of Secure Care – in order for both use and scrutiny to become more transparent and open. The Care Inspectorate will benefit from scrutinising the standards as currently written with more clarity on ownership and leadership. Whilst the alignment of the standards against an individual's experience makes sense, the scrutiny of the standards against an individual's experience may not make as much sense and is difficult for professionals to build into their own scrutiny models (e.g. into a self-assessment tool). SCRA would argue that additional support needs to be provided to public bodies in order for their own scrutiny models to align effectively with the approach espoused by the Secure Care Standards.

The standards may also be difficult to implement successfully – particularly if there is 'disputed' rather than agreed collective ownership; for example, standards 7 – 15 could result in different action from advocacy support / social work support / SCRA (in information sent to families) / CHS (in information given in the Hearing) / solicitors. This action may not all have a positive effect on a child and there is a danger that it could become overwhelming – of conflicting if different professionals take a different approach, so clarity on ownership and co-ordination is key. There are also a large number of standards – and it may be that further work to reduce these further might help with defined measurement.. In respect of the draft standards we have some specific comments:

BEFORE:

Standard 2: My needs are met by intensive supports in the community which are right for me, help keep me and others safe, and prevent my liberty from being restricted.

This is a useful and necessary aspirational statement to reflect the need for intensive community based services to be established across Scotland. It could be qualified, by saying something like "When it's possible, my needs...", firstly to reflect the fact that in some, hopefully unusual, situations the level and





speed of escalation of risk is such that there isn't an effective opportunity for a young person to receive intensive community supports before secure care becomes an option, and also to reflect that intensive supports in the community don't always effectively meet a young person's needs.

Standard 4: I am offered specialist support which helps me and people looking after me make sense of the difficulties I have experienced. I get the mental health care and treatment I need, as and when I need it.

Could perhaps say "I get any mental health care and treatment I need," mental health care and treatment is not an identified need for every young person at risk of secure care.

Standard 5: I am well supported to have influence in any discussions about potentially restricting my liberty.

Standard 6: I am involved and influence any decision to recommend secure care for me.

As a corporate parent SCRA fully supports children and young people's engagement and participation in decision about their lives. Many of those decision are taken in legal settings such as Children's Hearings. The use of the word "influence" in this context needs to reflect the duty of legal decision makers to clearly have regard for and take into account children and young people's views. The concept therefore of direct influence maybe goes too far in suggesting something about the impact of a young person's involvement or participation, which will depend on the circumstances. It would maybe be better to refer to opportunity to influence, or support to take part in discussions, with views being taken into account in any decision.

SCRA also thinks that perhaps standard 6 should also extend to decisions to authorise secure care as well as to recommend secure care, or whether standard 8 could be amended to include the young person's participation in decision making at the hearing. Otherwise, the impression is that the young person's direct engagement with decision makers is at the stage of the local authority making a recommendation for secure care, with the model of participation at hearings and court being through advocacy or legal





representation (standards 11 & 12); in the case of hearings, this is too limited as the young person should have the opportunity to provide views directly to the hearing and for the hearing to demonstrate how they have been taken into to account.

Standard 8: I benefit because the people making decisions about my future at Children’s Hearings fully understand the law. They consider my needs, and the risks for me and others, in depth.

All those making recommendations and decisions should fully understand the law, not just at the hearing stage.

Perhaps there it should also be stated that secure care will be authorised only where it’s necessary (and there are clear thresholds that apply here)

The hearing should absolutely consider the child’s needs and the risks for the child and others. The “in depth” consideration of these matters is something for a comprehensive assessment which should inform the hearing’s decision making. The concept of ‘in depth’ might usefully apply elsewhere in the document or be removed from this standard, as none of the earlier standards allude to this and as a result the erroneous impression that assessment takes place at the hearing alone could be given.

Perhaps “making decisions about me” would be more accurate than “about my future;” decisions to authorise secure accommodation are always going to be quite short term, and this would reflect that.

Standard 12: I fully understand the reasons for any decision to restrict my liberty. These reasons are written down in my Child’s Plan, and any records or reports, with care and in a way which helps me understand.

This may be read as to suggest that the hearing’s reasons will be incorporated verbatim in the Child’s Plan, records and reports, which is unlikely to be appropriate in every case. Might it be better to say that the reasons are reflected in the plan, records and reports?





Standard 14: I know the details of where I will stay and I have access to information which explains daily life there. Every effort is made to enable me to visit before going to stay.

Some orders, including interim variations and ICsOs authorising secure accommodation, might not specify a particular placement; which probably doesn't necessitate a change in the terms of the standard, but is something to bear in mind; the details of where the young person will stay might change during the currency of a hearing or court order.

DURING:

The "before" section having emphasised participation in decision making, this second section could do with more emphasis on the fact that the continuing deprivation of liberty requires to be justifiable on a continuing basis, and on the rights of the young person and family to continue to be involved in decision making, and to be supported in this involvement.

The secure authorisation must be regularly reviewed, and the CSWO has a duty to consult with the child in relation to reviews. The child also has a right to request a review of the secure accommodation authorisation, and a need for support to participate in this.

There may also be further children's hearings to review the secure accommodation authorisation; there must be a review within 3 months of the date of an order containing a secure authorisation being made.

There should also be recognition of rights if a secure authorisation is not implemented.

AFTER:

Standard 40: I am fully prepared and have influence on recommendations that will be made at meetings that make decisions about my future. I understand my rights to representation.

There is a suggestion that could be read into this standard that the direct participation of the young person is in relation to local authority recommendations alone, and does not reflect the right to participate





directly in decision making at children's hearings. We would also make the same comments as above about "influence" and "future."

Standard 41: My plans for moving on meet all my needs and involve everyone who has responsibility to care for and support me as long as I need this.

Standard 42: I am fully prepared for making the transition from the service and this is taken at a pace which means I am completely ready.

We are unsure whether this is intended to be about moving on from secure care only (including by a move to the open unit) or leaving the placement with the secure care provider altogether.

If the former, then there perhaps should be something to reflect that the stay in secure accommodation should be only for as long as is necessary, and only while the secure criteria continue to apply (see s151 (4) of the Children's Hearings (Scotland) Act 2011: the CSWO must remove the child from secure accommodation if it is considered unnecessary for the child to be kept there).

Standard 44: I have as much choice as possible and am able to visit the place that I am moving on to. I get to know the people there as they have been involved in planning with me for the move.

This is positive for young people, but would have to be read with the caveat that, if the young person is subject to a CSO, then depending on its terms, the planned move on might be contingent upon a hearing's decision making.

SCRA Practice & Policy Team, April 2019.

