

# Memorandum of understanding: secure children's homes

The Chief Inspector's support for the Secretary of State's functions with regard to secure children's homes

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## Introduction

1. This memorandum of understanding outlines the ways in which the Department for Education (DfE) and the Office for Standards in Education, Children's Services and Skills (Ofsted) will cooperate to facilitate the discharge of the Secretary of State for Education's functions and DfE's wider responsibilities with regard to secure children's homes, so that they offer safe, good quality care to children. It is not intended to replace or alter any processes or obligations prescribed by legislation.
2. The DfE is responsible for government policy concerning secure children's homes and for coordinating the Secretary of State's functions. The DfE's effective discharge of these functions depends on reliable information provided by suitably qualified and experienced professionals with an operational understanding of:
  - regulations and national minimum standards concerning children's homes, including how these apply to secure children's homes
  - the legal framework governing admissions to secure children's homes on welfare and justice grounds
  - court and local authority processes
  - Ofsted's registration and inspection processes
  - child development and the needs of young people, especially those with complex and challenging needs who are likely to be detained in secure accommodation on welfare or criminal justice grounds
  - children's rights.

In this respect, the DfE relies on Ofsted for professional advice and expertise.

## The Chief Inspector's legal obligations

3. The Chief Inspector has a general duty to keep the Secretary of State informed about:
  - the activities within the Chief Inspector's remit, including (where appropriate) the standards achieved by those for whose benefit the activities are carried on
  - improvements in the quality of such activities and in any such standards
  - the extent to which such activities are user-focused

- the efficient and effective use of resources in carrying out those activities and services.<sup>1</sup>
- 4. The Chief Inspector must also provide information or advice to the Secretary of State when requested to do so on matters relating to activities within his remit.<sup>2</sup>
- 5. There are three areas that the Secretary of State commonly requests advice on. These are:
  - approval of accommodation as an secure children's home
  - the placement of under 13s in secure children's homes
  - notifiable events.

## Approval

6. The approval process will be incorporated into Ofsted's bi-annual inspection activity for secure children's homes.
7. Children's homes must be approved by the Secretary of State before they can be used to provide secure accommodation.<sup>3</sup> Approval can only be given if the Secretary of State has the necessary information, including evidence that the proposed accommodation meets all the required standards and is fit for the purpose of detaining very vulnerable children in a way that can respond to their full range of welfare needs, whilst maintaining the necessary security.
8. Ofsted will produce an inspection report following every full and interim inspection of a secure children's home. The inspection report will outline how well the secure children's home meets the needs of the children living there. Any failure to meet a statutory requirement will result in a requirement to meet the Children's Home Regulations 2001, and any area for improvement will directly link to the *Children's homes: national minimum standards* and/or the *Children Act 1989 guidance and regulations volume 5: children's homes*. In particular, standard 23 sets out in detail the additional requirements that a secure children's home must meet.
9. Prior to any new secure children's home being approved, Ofsted will follow its registration process. Given the complexities of the buildings arrangements and the investment of public money, there may be additional visits to ensure that the proposed layout and design of the building meets registration requirements and is suitable for its purpose as a children's home approved by the Secretary

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<sup>1</sup> Under section 118(1) of the Education and Inspections Act 2006;  
<http://www.legislation.gov.uk/ukpga/2006/40/contents>.

<sup>2</sup> Under section 118(3) of the Education and Inspections Act 2006.

<sup>3</sup> Under regulation 3 of The Children (Secure Accommodation) Regulations 1991;  
<http://www.legislation.gov.uk/uksi/1991/1505/contents/made>.

of State to function as a secure children's home. The DfE will consider approval based on Ofsted's decision to register.

10. There will be circumstances where a secure children's home meets most but not all standards. In these cases, the Secretary of State will need to be advised on:
  - whether provisional approval should be given
  - what conditions still need to be met
  - the time period in which these conditions are to be met.
11. For homes with existing approvals, the DfE will review the approval at least every three years using Ofsted inspection evidence and other information (such as that provided by the DfE architectural adviser). Where requested by the DfE, Ofsted will contribute to the Secretary of State's evaluation and provide appropriate advice.
12. The DfE will maintain records of secure children's homes indicating when approvals should be reviewed, along with any outstanding conditions (and timescales) in cases where it has only been possible to offer provisional approval.

## **Requests to detain children under 13 in secure children's homes**

13. Local authorities must obtain the approval of the Secretary of State before placing a child under the age of 13 in a secure children's home.<sup>4</sup> So that the Secretary of State can give these requests the full and careful consideration they deserve, the DfE policy team, acting on behalf of the Secretary of State, will require access to professional advice. Ofsted can only provide advice in office working hours and will aim to do so with minimum delay.
14. Future arrangements and Ofsted's role in this work are subject to review by April 2013.

## **Notifications**

15. Registered providers of children's homes (including secure children's homes) must notify Ofsted whenever a notifiable event has taken place. Registered providers must also notify the Secretary of State in the event of the death of a child in a home, but the Secretary of State may also want to be informed of other events as appropriate. To facilitate this, Ofsted will assess the information received about each notifiable event to determine whether or not it should be forwarded to the DfE.

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<sup>4</sup> Under regulation 4 of The Children (Secure Accommodation) Regulations 1991.

16. Assessment of whether or not an event should be notified to the Secretary of State may require an inspector to make additional enquiries with the unit concerned to check and verify the information received. Ofsted will arrange this, as and when required.
17. Ofsted scrutiny of these notifications is necessary because they have the specialised professional skills that are needed to assess the relevance of the information and provide accurate briefing to the DfE. This enables policy officials to be confident that, where necessary, Ministers can be given accurate, timely, good quality briefings.

## **Support for the DfE capital programme**

18. The DfE holds funding to provide for the capital development of secure children's homes. This includes funding for major rebuilding work alongside funding for minor works to maintain the quality and security of the secure children's home's estate.
19. To achieve value for money, each bid for funding needs to be scrutinised in to ensure it makes the best use of public money. So that the DfE can do this with the necessary diligence, they need independent architectural and operational advice. Ofsted's inspectors are able to advise on the suitability of building layout and design to meet the requirements of regulations and national minimum standards, so that the secure children's home provides a secure environment with the capacity to respond appropriately to the needs of detained children. Where appropriate (for example because of the costs or complexity of design), the DfE may seek Ofsted's input to confirm that new building work has been completed to the standard required for registration with Ofsted.

## **General advice and information**

20. The routine activities of Ofsted's inspectors give Ofsted an overview and understanding of the unique problems faced by each secure children's home and the sector as a whole. This means that the Chief Inspector is the first point of contact for information and professional advice about sector development.
21. As a result, the DfE policy team need to maintain a strong working partnership with Ofsted. The Chief Inspector's knowledge and expertise are essential for informing advice to Ministers about wider strategic issues influencing the sector's contribution to the welfare of extremely vulnerable children with the most complex and challenging needs.

## **Review**

22. Working arrangements between the DfE and Ofsted will be reviewed as required and by April 2013.