

## **NOTIFICATION OF CHILDREN LIVING AWAY FROM HOME (Section 85 of Children's Act 1989)**

Section 85 of the Children Act 1989 places a duty on local authorities to check on the safety and welfare of children living in residential education or hospital provision for any continuous period exceeding and/or likely to exceed 12 weeks.

The intention behind the legislation is to provide a 'safety net' for vulnerable children living away from home where the child is not accommodated under section 20 and where the child is not subject to the usual processes of Care Planning and review by an Independent Reviewing Officer.

The legislation is aimed particularly at ensuring the safety and support needs of disabled children and their families. These children are at increased risk of significant harm within every category of abuse due to their increased level of dependency on others. The families of disabled children also experience enormous demands upon their parenting capacity in trying to meet a child's additional needs.

The institutions required to comply with this notification policy include:

- Residential 'special needs' schools either joint or single agency funded both 'in' and 'out' of borough, including maintained and non-maintained boarding schools;
- Hospitals, including small 'local' hospitals and independent/private hospitals;
- Psychiatric units including private and voluntary sector units including those that treat young people for dependency on drugs or alcohol.

**Note:** The Children and Young Persons Act 2008 amends Schedule 2 Part 1 of the 1989 Children Act and clarifies the sort of services appropriate for 'accommodated' children away from home (Section 85) including financial help to promote contact, advice, counselling and help for children to holiday with their family as well as the provision of advocacy services.

### **1. CONTENT AND TIMING OF NOTIFICATIONS**

1.1 Notifications to Children's Services will typically contain the following information:

- Child's name;
- Child's date of birth;
- Child's address immediately prior to admission (or that of person with parental responsibility immediately prior to delivery);
- Date of admission to hospital;
- Ward/Department, lead professional for the child and contact details;
- Name and contact details of parents/carers

1.2 The notifying authority will also inform the parents/carers that the information has been disclosed to Children's Services.

1.3 Best practice dictates that notifications should be received at least three weeks before a child has been away from home for the continuous statutory period 12 weeks so that Children's Services interventions remain within timescales.

## **2. SECTION 85 REFERRAL PROCESS**

- 2.1 Most Section 85 notifications should be processed by CSCT. From there, for all children under the age of 5, the notifications will be forwarded to targeted Early Help services who will complete the s85 report. For all children and young people ages 5 and up, the notifications will be forwarded to the S&QA Service and an Independent Reviewing Officer will be allocated to complete the s85 report.
- 2.2 For children and young people with a disability diagnosis the s85 request should be directed to the Disabled Children's Team who will follow the same process.
- 2.3 Notifications are required when a child is likely to be resident within an institution for a consecutive 12 weeks or more.
- 2.4 The legal interpretation of the 'consecutive period' is that a very short period of time at home (i.e up to a weekend), would not break the 'consecutive period'. If there are regular visits or stays home, then that child is not spending a lengthy period away from home and the 'consecutive period' was being broken and section 85 would not apply.
- 2.5 CSCT staff will check the qualifying criteria when a notification is received and progress the ones that meet the s85 criteria.
- 2.6 In all cases where the professional network working with a child/young person in a hospital setting have safeguarding concerns, the normal referral process should be triggered, where a decision will be made whether threshold for Children's Services intervention is met or not.

## **3 ACTION FOLLOWING REFERRAL**

- 3.1 Where Children's Services have been notified under this Section, they shall:
  - a. take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while (s)he is accommodated by the accommodating authority; and
  - b. consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child
- 3.3 In cases where children are not known to the Local Authority a Request For Service form is sent to Children's Services Contact Team who will:
  - check that the qualifying criteria for s85 is met;
  - create a contact on the electronic system and notify Early Help services (for children under the age of 5) and Safeguarding and Quality Assurance team (for children and young people over the age of 5).
  - All children under the age of 5 will be allocated to a Family Intervention Worker. Initial enquiries will be undertaken by the Family Intervention Worker, who will clarify the issue of consent for s85 and if agreed with the family will include a

meeting with the child and family to assess the need for any intervention using the Early Help Assessment;

- All children and young people over the age of 5 will be allocated an Independent Reviewing Officer who will clarify the issue of consent for s85 and if agreed complete a s85 report, which will include a meeting with the child/young person, if possible, the family and conversations with the professional network working with the child/young person.

3.4 Where based on the s85 report it is identified that the Local Authority must intervene to provide services under Children's Act 1989 the author of s85 report will refer the case to the appropriate team within Children's Services.

3.5 In cases where a child or young person is already known to the Children's Services it is expected that a Child and Family Assessment (Single Assessment) will be undertaken by an allocated social worker. This will then be reviewed by the Team Manager. This review may include a meeting with the child and the family to assess any need for further intervention.

3.6 The above process also applies for children and young people with disabilities.

3.7 In the cases where the child or young person has had more than one episode of living away from home for 12 consecutive weeks and/or more than one Child and Family Assessment completed in the last 24 months, the last assessment needs to be reviewed by the Service Manager to assess any need for further intervention.

The S85 report needs to be shared with the referrer, the parents and child/young person if appropriate and placed on the child/young person's electronic file.

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August, 2019