



HM Government

Secure School Assurance Handbook

For secure academy trustees, secure school directors, and government commissioners.

May 2024

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Introduction

Secure schools are an integral part of the government's agenda for reforming youth custody, improving outcomes for children in the justice system and thereby reducing reoffending and protecting the public. They will provide secure care, education and health services for children who are remanded to custody or given a custodial sentence. They are designed to be "schools with security" rather than "prisons with education", incorporating best practice in working with complex and challenging children and young people from education, community services and secure settings. Secure schools are built on care and quality, delivering a therapeutic environment in a secure setting. They will have child-focused providers, strong leaders with freedom and autonomy and a specialised workforce. To enable this vision, secure schools are dual established. The secure children's home element is registered, regulated and inspected by Ofsted. It is approved by the Secretary of State to restrict children's liberty as set out in The Children (Secure Accommodation) Regulations 1991. The 16-19 academy element is regulated by the Ministry of Justice and inspected by Ofsted. A secure 16 to 19 academy is defined under section 1B of the Academies Act 2010

Running a secure school is a charitable object and secure school providers are non-profit charitable trusts – "secure academy trusts". In line with the Department for Education's (DfE) approach for commissioning providers to run academies, applications to run a secure school are invited and assessed by the Ministry of Justice (MOJ) in partnership with NHS England and the DfE. The secure school is funded directly by the MOJ via a funding agreement between the Secretary of State for Justice and the secure academy trust. This Secure School Assurance Handbook (the 'handbook') is incorporated into the secure school model funding agreement by reference.

Evidence and experience show that conventional contract management approaches with commercial suppliers in youth custody do not always work and can lead to process-driven practice, instability, and fractious working relationships – which ultimately leads to poor outcomes for children and reoffending. Secure schools are a new approach which accords more autonomy, provides integrated services, and assesses outcomes holistically and takes a collaborative problem-solving approach to continuous improvement.

The DfE enables autonomy in academies by assuring the governance arrangements in academy trusts in which rests the responsibility for the assurance of performance of their individual schools, which are then independently inspected by Ofsted. Secure children's homes (SCHs) are regulated by Ofsted which holds enforcement powers as do, where the SCH's health provision is registerable, the Care Quality Commission (CQC). The Youth Custody Service (YCS) commissions beds in some SCHs for justice placements and, as part of these contracts, requests regular assurance and performance information directly. In addition, they have assurance routes through their respective local authorities. NHS England has a statutory duty to commission health services in SCHs and requests performance information directly from the healthcare providers in these homes.

The assurance framework for secure schools seeks to adapt the DfE approaches, whilst acknowledging the risk-profile of secure settings and the vulnerability of the cohort. It also seeks to embed a partnership approach to assurance between YCS and NHS England as "co-commissioners" of secure schools. This means the two organisations will work together to oversee the delivery and performance of the integrated services provided in a secure school – in line with their respective statutory functions and duties – and agree any required performance support or interventions. Ofsted can intervene and take regulatory action in relation to the secure children's home element of the secure school at any point.

Secure academy trusts should expect a higher degree of scrutiny – both from government

commissioners and the wider public sphere – than can be found in mainstream education. There are several agencies with an interest and discrete terms of reference regarding secure

schools and their roles and responsibilities are set out in **Part 1**. Direct engagement between the YCS/NHS England and the secure academy trust will likely be more frequent and require a higher volume of information sharing (baseline requirements for this reporting are set out in **Part 2**). As the Secretary of State has a legal duty of care for children in custody, it, acting through the YCS, will retain intervention powers in the case of poor performance and to meet its obligations safeguarding the welfare of children (the circumstances and format of these interventions is set out in **Part 3**).

Concurrently, commissioners in the YCS and NHS England should pay due regard to the secure school vision when interpreting this handbook. As a reform initiative, secure schools are seeking to trial a different approach to the commissioner-provider relationship, learning from the quality governance techniques in the academies framework, as a means of achieving better outcomes for children in custody. Working relationships should be strong and built on mutual trust and accountability. Assurance activity should focus on collaborative and holistic assessment of outcomes and not merely “checklist” compliance with the baseline obligations outlined in this handbook. Secure academy trusts and government commissioners should work together to align reporting requirements with the trusts’ internal reporting arrangements as much as possible so as to avoid unnecessary duplication. Interventions by the commissioners should, in the first instance, focus on improvement support and capability building, and not be punitive or resort to “command and control”.

Commissioners and secure academy trusts should be aware that the emphasis and intensity secure school assurance could be dynamic, outcomes-led, and risk-aware since there may be times, such as the early stages of opening, when secure school providers need more support from government and other times where lessening the demand from central government can help a secure school to flourish.

The secure school initiative is new and in its early stages. It is intended that it will undergo a full process and outcome evaluation to determine the pace and extent of its further roll-out and make any changes to the model that may be deemed necessary. This handbook, and the assurance framework underpinning it, may therefore be subject to change.

This handbook describes the operational assurance arrangements to which commissioners and secure academy trusts will adhere. It describes their respective roles and responsibilities – and those of inspectorates and other parties – in ensuring that secure schools are safe, compliant, and achieving their intended outcomes; it summarises the key requirements of running secure school provision as they pertain to assuring performance; and the processes by which secure academy trusts can access support and commissioners can intervene. It seeks to balance the need for effective assurance of child welfare and outcomes with the freedoms that secure schools need over their day-to-day business.

Guidance about the assurance processes for secure school finances can be found in the Secure School Financial Handbook. Guidance about secure academy trust governance and governing regulations can be found in the Secure School Governance Handbook.

Compliance with the handbook is a requirement in a secure school’s funding agreement with the Secretary of State.

In the handbook:

- **‘must’** - identifies requirements with which secure academy trusts must comply;
- **‘should’** - identifies minimum good practice, where there is no absolute requirement, but which trusts should apply unless some alternative better suits the realisation of the secure school’s objectives.

Contacting the Youth Custody Service

Any questions about this handbook may be directed to
SecureSchools.Operations@justice.gov.uk

Part 1: Roles and responsibilities

This part of the handbook explains the responsibilities of the Secretary of State for Justice acting through the Ministry of Justice (the “Secretary of State”), the Youth Custody Service (“YCS”), NHS England, inspectorates, secure academy trusts and other parties. Trustees and managers must have the skills, knowledge, and experience to run the secure academy trust and the secure school. Understanding the secure academy trust’s role will help ensure the trust complies with legal and contractual duties.

Ministry of Justice

- 1.1. The Secretary of State will sign a funding agreement with the secure academy trust, which is thereafter accountable to the Secretary of State for the performance of their secure school(s).
- 1.2. The Secretary of State will only approve the signing of a funding agreement with a secure academy trust if it is confident that the proposed secure school could achieve a “Good” or “Outstanding” rating at its first Ofsted inspection. This judgement is made under advisement from officials on the basis of the progress of the pre-opening phase and the provider’s pre-opening submissions.
- 1.3. The Secretary of State is also responsible for approving, and subsequently re-approving, the secure school to restrict the liberty of children. The decision to grant these approvals is made by the Secretary of State who also considers information provided by Ofsted and an independent specialist architect commissioned by MOJ who has the relevant skills. These licences are usually granted for three years, but a licence may be granted for a shorter period.
- 1.4. The Secretary of State has ultimate accountability for the performance of secure schools and the safety and welfare of the children placed in them. It is responsible for putting in place an adequate assurance framework to ensure a secure academy trust is acting in compliance with all legal, contractual and policy requirements and that children are receiving an effective and safe service.
- 1.5. The Secretary of State may issue formal directions and termination warning notices to secure academy trusts in the event of unacceptable poor performance and/or breaches to the provisions of the funding agreement and its associated documents in accordance with clause 6 of the model funding agreement. Secure academy trusts must comply with any instructions issued within termination warning notices issued by the Secretary of State. See Part 3 of this handbook for more details on performance intervention.
- 1.6. The Secretary of State also acts as the Principal Regulator for secure academy trusts and is therefore primarily responsible for promoting compliance by the charity trustees with their legal obligations in exercising control and management of the administration of their secure academy trust. The respective roles of the Secretary of State and Charity Commission in ensuring compliance with charity law and regulations are outlined further [below](#).
- 1.7. The Secretary of State also has responsibility for ensuring secure schools comply with the assurance of their finances and governance as outlined in the Secure Schools Financial Handbook and the Secure Schools Governance Handbook.

Youth Custody Service

- 1.8. His Majesty's Prison and Probation Service (HMPPS) is an executive agency of the Secretary of State, responsible for running prison and probation services. Within HMPPS, the YCS is responsible for the Children and Young People Secure Estate (CYPSE). HMPPS' chief executive officer is accountable to the Secretary of State for the performance of the CYPSE and the wellbeing of children in its care.
- 1.9. The YCS, with NHS England, is a co-commissioner for secure schools. The YCS is the sole placing authority.
- 1.10. The YCS exercises the rights, powers, and remedies in this handbook on behalf of the Secretary of State. If the YCS fails to use, or delays in using, any of these, this does not mean that it cannot do so later.
- 1.11. This includes the routine monitoring and assurance of:
 - compliance with the funding agreement, and associated documents and guidance;
 - the secure school's performance against expected outcomes and quality standards;
 - the policies the secure school is required to have in place; and
 - the actions taken to fulfil, and effectiveness of, any performance improvement plans or formal directions.
- 1.12. The YCS is responsible for co-ordinating with the secure academy trust any intervention measures within the funding agreement and this handbook including any performance improvement support deemed necessary, above and beyond those sourced independently by that secure academy trust. As a co-commissioner, the YCS will share all relevant information about the performance of secure schools with NHS England and consult NHS England, through agreed governance structures, before intervention action is taken.
- 1.13. Co-ordination of performance improvement support and intervention measures with respect to the health provider contract is the responsibility of NHS England, and the YCS will co-operate with this process and ensure any necessary facilitating action is taken. Should the YCS have concerns about the performance of a secure school's health provider, they will raise this with NHS England through agreed governance structures in the first instance and consult on any intervention action that needs to be taken. Consultation/co-operation should also take place with Ofsted as the regulator of the secure children's home element of the secure school and CQC as the regulator for any regulated health activity at the secure school.
- 1.14. The YCS will provide secure academy trusts with a primary named point of contact – their "YCS relationship manager". The YCS relationship manager, or a designated deputy, will be responsible for collating, reviewing, and assuring the required reports and policies received from the secure academy trust, and for convening and chairing any assurance review meetings with the relevant representatives from the secure academy trust/secure school and NHS England.
- 1.15. Other arms of HMPPS may also have an interest in the performance information of secure schools – for example, the Operational and System Assurance Group (OSAG) – or could be drawn upon to offer performance support or quality assurance – for example, the Security, Order and Counter-Terrorism directorate (SOCT). The YCS will broker any necessary information sharing or performance support from the wider HMPPS on behalf of secure academy trusts.

NHS England

- 1.16. NHS England is responsible for the commissioning of healthcare services for children and young people placed in secure schools. The healthcare contracts for secure schools will be signed by the appointed healthcare provider and NHS England at a regional level. These providers are ultimately accountable to NHS England for their performance.
- 1.17. NHS England has a statutory duty to “exercise its function with a view to securing continuous improvement in the quality of services provided to individuals and in the outcomes that are achieved from the provision of services” as set out in the National Health Service Act 2006.
- 1.18. NHS England is responsible for ensuring the relevant secure school healthcare service specifications are met by commissioned healthcare providers. They are also responsible for the monitoring, collection and sharing of performance outcomes, as required, via the Children and Young People Indicators of Performance (CYPIPs) and any other locally agreed key performance indicators with the healthcare provider.
- 1.19. NHS England is responsible for assuring the quality of the services it directly commissions and for oversight and assurance that clinical risks within those services are mitigated. NHS England is also responsible for the assurance of the healthcare contract, and for facilitating and co-operating with any performance management measures undertaken by the YCS with respect to secure schools. Performance monitoring and intervention action in relation to secure schools’ health providers will be taken by NHS England in accordance with the healthcare contract and the [NHS Standard Contract technical guidance](#). [CQC are the regulator of health services](#).
- 1.20. As a co-commissioner, NHS England will share all relevant information about the healthcare provision in secure schools with YCS and consult YCS, through agreed governance structures, before intervention action is taken. Should NHS England have concerns about the performance of a secure school provider, they will raise this with YCS through these governance structures in the first instance and consult with them on any intervention action that needs to be taken. Any regulatory concerns should be raised with CQC.
- 1.21. NHS England will provide the school with a primary named point of contact – normally the NHS England Health and Justice Children commissioning manager – in the relevant region for NHS commissioning. Representatives from NHS England will attend all relevant assurance review meetings.
- 1.22. The respective roles of the MOJ and NHS England are set out in more detail in the joint memorandum of understanding (MOU).

Inspectorates

- 1.23. Ofsted and CQC – “the inspectorates” – have responsibility for the inspection and regulation of secure schools.
- 1.24. Ofsted are responsible for the registration, inspection and regulation of the secure children’s home element of the secure school, and inspection of the 16-19 academy element. The MoJ is responsible for the regulation of the 16-19 academy element. Secure academy trusts must apply to Ofsted for registration of the secure children’s home element in advance of opening. [Ofsted publishes guidance for providers wishing to apply for registration](#). Ofsted will conduct a registration inspection and, when making registration decisions, will seek advice from independent specialist architects with relevant skills, knowledge and experience in the secure children’s home sector contracted by the MOJ.
- 1.25. A secure school’s health provider will provide a “regulated activity” (as defined [here](#)),

and they will need to register with the Care Quality Commission (CQC).

- 1.26. Ofsted have published inspection guidance for secure schools ([Guidance: Secure 16 to 19 academies](#)). The secure children's home element will be inspected under the [Social Care Common Inspection Framework \(SCCIF\): Secure Children's Homes](#) taking into account the [Further education and skills inspection handbook](#). The 16-19 academy element will be inspected under [Education Inspection Framework \(EIF\)](#). Any changes to how secure schools are inspected falls within Ofsted's remit and would be in line with legislation and their inspection and organisational values and principles.
- 1.27. Secure schools will be inspected under the SCCIF at least twice per year by Ofsted with the support of CQC. At least one of these inspections will be a full inspection. CQC carry out inspections under Ofsted's powers as set out in the Education and Inspections Act 2006. If requested by Ofsted, CQC will join assurance inspections if there is a specific concern about health provision.
- 1.28. A monitoring visit of the 16-19 academy element of the secure school will take place under the EIF as a stand-alone inspection within 18 months of the provision opening.
- 1.29. An aligned inspection under both the EIF and SCCIF will take place within three years of the school opening. Thereafter, the next aligned inspection will be determined by the outcome of the first, and through ongoing risk assessment (including the outcomes of inspections under the SCCIF).
- 1.30. The inspectorates may return for additional inspections or monitoring visits at any point.
- 1.31. The purpose of inspections is to evaluate the impact of care including health care and support on the experiences and progress of children, and to evaluate children's education and learning experiences. Full and aligned inspections follow the 4-point scale (outstanding, good, requires improvement to be good and inadequate) to make judgements on:

Full SCCIF inspections:

- The overall experiences and progress of children, taking into account:
- Children's education and learning experience
- Children's health
- How well children are helped and protected
- The effectiveness of leaders and managers

For aligned inspections:

The secure children's home element:

- The overall experiences and progress of children, taking into account:
- Children's health
- How well children are helped and protected
- The effectiveness of leaders and managers

The 16-19 academy element:

- Overall effectiveness, taking into account:
- The quality of education

- Behaviour and attitudes
 - Personal development
 - Leadership and management
- 1.32. Ofsted will share inspection reports with the home's registered person who must ensure copies are provided to the YCS relationship manager under the terms of the Funding Agreement and the primary point of contact in NHS England if required. Inspection reports will be published on Ofsted's website.
- 1.33. If inspectors identify a secure school's failure to meet regulations, Ofsted can take enforcement action. Ofsted's powers as the regulator of secure children's homes are summarised below:
- refusing a registration
 - making a recommendation for action
 - raising a requirement
 - imposing or varying conditions of registration
 - serving compliance notices
 - suspending a registration
 - restricting accommodation
 - cancelling a registration

The enforcement powers available to Ofsted do not have to be used consecutively or in any order. Ofsted can also use more than one type of enforcement action at the same time. They will use their enforcement powers proportionately, keep enforcement action under review and adjust any steps that are being taken where appropriate.

Ofsted's [social care enforcement policy](#) has detailed information.

- 1.34. Ofsted and CQC will have statutory enforcement and regulatory powers for secure schools and their health provision. These statutory powers are set out in the [Care Standards Act 2000](#), [The Children's Homes \(England\) Regulations 2015](#) and [The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#). Secure academy trusts must comply with any enforcement action. For further detail on how and when these powers might be used, please see the [Social Care Compliance Handbook](#).

Secure academy trusts

- 1.35. Secure academy trusts are signatories to a funding agreement with the Secretary of State. They are responsible for:
- achieving and maintaining children's home and secure 16-19 academy designation for the secure school;
 - ensuring the secure school complies with all relevant legislation, quality standards and guidance;
 - ensuring the safe and high-quality running of the secure school;
 - ensuring the secure school's leadership is effective and proper;

- ensuring the secure school remains on track to securing “Good” or “Outstanding” inspection reports;
 - ensuring that the secure academy trust, and the secure school(s) they operate, comply with the terms of the funding agreement and associated documents.
- 1.36. The secure academy trust should make internal governance arrangements for the regular and effective monitoring of the performance of the secure school, with particular reference to standards set out in the following documents (and whatever may replace them from time to time):
- [The Children’s Homes \(England\) Regulations 2015](#)
 - The [Guide to the Children’s Homes Regulations including the quality standards](#)
 - [The Healthcare Standards for Children and Young People in secure settings](#)
 - [Health and Justice Children Programme National Partnership Agreement](#)
 - [The Education Inspection Framework](#) (16-19 Academies)
 - [Further education and skills handbook](#)
 - [The Social Care Common Inspection Framework \(Secure Children’s Homes\)](#)
- 1.37. The secure academy trust and its trustees must comply with their duties under charity law.
- 1.38. The secure academy trust must adhere to the required reporting arrangements set out in Part 2 of this handbook. The secure academy trust should designate an appropriate staff member to be accountable to the commissioners for the overall performance of the secure school and any performance improvement plans it puts in place. This accountable person, or an appropriate deputy, will attend assurance review meetings with the commissioners as may be required.
- 1.39. The secure academy trust must make arrangements for children placed in the school to access an independent advocacy service. Advocacy services provided to children in secure schools should adhere to the [National Standards for Children’s Advocacy Services](#).
- 1.40. The secure academy trust must report any whistleblowing allegations to the commissioners within 24 hours of becoming aware and ensure that the commissioners are kept informed of the investigation process and outcomes.
- 1.41. The secure academy trust must inform the commissioners of any identified performance concerns (as set out in Part 3 of this handbook) and develop performance improvement plans to address them. The secure academy trust must comply with any reasonable request by the commissioners to develop a performance improvement plan in accordance with the process set out in Part 3.
- 1.42. Secure academy trusts must enable and comply with any actions taken, or directed to be taken, under the “ladder of interventions” set out in Part 3 of this handbook. This may include compliance with relevant audits, and providing any other reports or management information, as stipulated by the commissioners or other agencies as part of this process.

Department for Education (DfE)

- 1.43. As a secure children home and a 16-19 academy, secure schools will operate to legislative frameworks for which the DfE has policy responsibility. The division of responsibilities between the Secretary of State for Justice and the Secretary of State for Education are set out in a joint memorandum of understanding. This legislation may

be amended from time to time through the appropriate parliamentary processes and – In co-operation with the Secretary of State for Justice, YCS and NHS England – DfE will determine how any such changes will affect and be communicated to secure academy trusts.

- 1.44. Secure schools will be recorded as “academy – 16 to 19 secure” on the DfE website, Get Information About Schools (GIAS).
- 1.45. Secure schools will not participate in any DfE data collection exercises, including completing the school census or returning Individualised Learner Record data. Secure schools will not be included in league tables or on any wider DfE publications of exam results data.
- 1.46. DfE will remain an interested party in the governance and assurance of secure schools. The YCS should ensure that DfE are kept informed of major developments concerning the performance and/or compliance of secure academy trusts.
- 1.47. MoJ will consult DfE prior to significant performance interventions, such as termination warning notices or notices to improve, and will endeavour to assist with the co-ordination of performance support where appropriate.

Charity Commission

- 1.48. The Charity Commission is the statutory regulator and registrar of charities in England and Wales, subject to the legal framework as set out in the Charities Act 2011 (Charities Act). It is a non-ministerial government department. Section 13 of the Charities Act prohibits the exercise of any Charity Commission function being subject to the direction or control of any Minister of the Crown or of other government departments.
- 1.49. The Charity Commission’s objectives are to:
 - increase public trust and confidence in charities;
 - promote awareness and understanding of the operation of the public benefit requirement;
 - promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities;
 - promote the effective use of charitable resources; and
 - enhance the accountability of charities to donors, beneficiaries, and the general public.
- 1.50. The Charity Commission’s general functions include:
 - determining whether institutions are or are not charities;
 - encouraging and facilitating the better administration of charities;
 - identifying and investigating apparent misconduct or mismanagement in the administration of charities and taking remedial or protective action in connection with misconduct or mismanagement in the administration of charities; and
 - obtaining, evaluating and disseminating information in connection with the performance of any of the Charity Commission’s functions or meeting any of its objectives.
- 1.51. The Charity Commission’s powers are set out in the Charities Act 2011 and some of its powers are set out at “Appendix A” of [the Charity Commission’s memorandum of understanding with the Secretary of State](#).
- 1.52. These powers extend to “[exempt charities](#)” such as secure academy trusts. The

Charity Commission must consult the relevant Principal Regulator (for secure academy trusts that being the Secretary of State) before exercising any specific power in respect of an exempt charity. The Charity Commission may not exercise its power to institute a statutory inquiry into an exempt charity unless requested to do so by the Principal Regulator. The Charity Commission may open monitoring and operational cases without a request from the Principal Regulator.

- 1.53. As Principal Regulator, the Secretary of State has to do all it reasonably can to meet the 'compliance objective' i.e. to promote compliance by the trustees of secure academy trusts with their legal obligations in exercising control and management of the administration of their charities. If the Secretary of State identifies a concern about a secure academy trust, it may invite the Charity Commission to use its powers of investigation and intervention.
- 1.54. The Secretary of State will keep the Charity Commission informed of regulatory or enforcement action which is being taken in respect of secure academy trusts, so that the Charity Commission can consider the implications of that for assessing compliance with charity law.

Prisons and Probation Ombudsman (PPO)

- 1.55. The PPO is a public body in England and Wales appointed by the Secretary of State to carry out independent investigations into deaths in custody. The Ombudsman is wholly independent. This enables the Ombudsman to execute fair and impartial investigations, making recommendations for change where necessary.
- 1.56. The PPO have a duty to investigate fatal incidents in secure schools, under Section 40 of the CHR 2015.
- 1.57. The Secretary of State, and secure academy trusts, must ensure that the Ombudsman has unfettered access to all relevant material, held both in hard copy and electronically, that is required for the purpose of the PPO's investigations.
- 1.58. Secure academy trusts must allow the Ombudsman and their staff to have access to their premises for the purpose of conducting interviews, for examining source materials and for pursuing other relevant enquiries in connection with their investigations. The Ombudsman will normally arrange such visits in advance.
- 1.59. The Ombudsman and their staff have the right to interview all employees and other individuals as required for the purposes of an investigation and secure academy trusts must grant unfettered access to all such individuals. This includes the staff of contractors and sub-contractors.

Youth Justice Board (YJB)

- 1.60. The YJB is an executive non-departmental public body, sponsored by the MOJ. It has a statutory responsibility for overseeing the youth justice system in England and Wales, as per the Crime and Disorder Act 1998.
- 1.61. The YJB's primary functions include:
 - using information and evidence to form an expert view of how to get the best outcomes for children who offend and for victims of crime;
 - advising the Secretary of State for Justice and those working in youth justice services about how well the system is operating, and how improvements can be made;
 - identifying and sharing best practice;

- promoting the voice of the child;
 - commissioning research and publishing information in connection with good practice; and
 - monitoring the youth justice system and the provision of youth justice services.
- 1.62. Secure academy trusts should develop proactive relationships with the YJB for sharing best practice and should comply with reasonable requests for access or information sharing from the YJB to enable it to fulfil its statutory duties.

Children’s Commissioner for England

- 1.63. The Office of the Children’s Commissioner for England was established under the Children Act 2004 to promote the rights, views and interests of children in policies or decisions affecting their lives. The Children and Families Act 2014 strengthened the office’s powers, particularly in regard to the rights of children who are in or leaving care, living away from home or receiving social care services. This will include children in secure schools.
- 1.64. The Children’s Commissioner may provide advice and assistance to any child who is resident in secure schools or make representations on their behalf to secure school providers or the YCS. Under the Children and Families Act 2014, the Children’s Commissioner has statutory rights of access to premises and information to discharge this duty. Such visits may be unannounced.
- 1.65. Secure academy trusts must comply with these rights of access to enable the Children’s Commissioner to discharge its statutory duties.

Local agencies

- 1.66. Local authorities will each have a Local Safeguarding Children Partnership (LSCP) to which secure schools will be subject.
- 1.67. LSCPs have a statutory duty to:
- assess the effectiveness of the help being provided to children and families, including early help;
 - assess whether LSCP partners are fulfilling their statutory obligations;
 - quality assure practice, including through joint audits of case files involving practitioners and identifying lessons to be learned; and
 - monitor and evaluate the effectiveness of training, including multi-agency training, to safeguard and promote the welfare of children.
- 1.68. The role and powers of the LSCP are set out in [Working Together to Safeguard Children](#), with which secure academy trusts must comply.
- 1.69. Any concerns about the support received from local multiagency safeguarding arrangements in place must be immediately escalated to the local authority, the YCS and Ofsted.
- 1.70. Secure academy trusts should develop arrangements with the school’s local police force to enable:
- the effective management of serious incidents that cannot be appropriately addressed within the school itself, and
 - the effective investigation of actual or suspected criminal wrongdoing within the school.

- 1.71. Secure academy trusts should work with police to develop an approach to their joint responsibilities that minimises the undue criminalisation of children already resident at the school.

Part 2: Reporting

This part of the handbook explains the minimum reporting requirements with which secure academy trusts will be expected to comply so that commissioners and inspectorates can appropriately discharge their respective duties of care to resident children. It outlines what secure academy trusts will be expected to report, to whom and how frequently. The precise nature and format of secure academy trusts' reporting relationship to commissioners – outside of statutory requirements – may vary, and innovation beyond these minimum standards is encouraged.

Reporting serious events in the school

- 2.1. Secure academy trusts must follow the requirements set by Regulation 40 of the Children's Home Regulations (CHR) 2015 and the [quality standards](#) with regards to "notification of a serious event".
- 2.2. Secure academy trusts should be aware that under Regulation 18 of the Care Quality Commission (Registration) Regulations 2009, secure school health providers must also report any serious events as defined under that regulation to the CQC. All health providers must send their notifications directly to CQC unless the provider is a health service body, local authority or provider of primary medical services and it has previously notified NHS England.
- 2.3. Serious events include, but are not limited to, incidents in the secure school or while on escort away from the secure school in which:
 - a child dies (CHR 40(1))
 - a referral under Section 35 of the Safeguarding Vulnerable Groups Act 2006 (suspected of harming children or putting them at risk of harm) is made against a member of staff (CHR 40(3))
 - a child is, or is suspected of being, involved in, or subject to, sexual exploitation (CHR 40(4)(a))
 - an incident requiring police involvement occurs in relation to a child (CHR 40(4)(b))
 - there is an allegation of abuse against the home or someone working there (CHR 40(4)(c))
 - a child protection inquiry is instigated or concludes (CHR 40(4)(d))
 - any other incident relating to the child that the registered person(s) considers serious (CHR 40(4)(e))
 - a child accesses or receives electronic material that may suggest that [they (sic.)] are at increased risk of, or being subjected to sexual exploitation (Guide to the CHR 14.16 ref CHR 40(4)(a))
 - a child absconds from the SCH or an escort service whilst away from the SCH (Guide to the CHR 14.16 ref (40(4)(e))
 - a child has a serious accident while in the SCH or with an escort service whilst away from the SCH (Guide to the CHR 14.16 ref (40(4)(e))
 - a child makes or receives unauthorised contact with a family member, friend or other person that the child's relevant plan says they should not be in contact with (Guide to the CHR 14.16 ref (40(4)(e))

Other events that may be considered serious by the registered person(s) include:

- a child being the victim or perpetrator of a serious assault;
 - a serious illness;
 - a serious incident of self-harm,
 - or when a child has been missing for a considerable period of time and their whereabouts is unknown.
- 2.4. Secure academy trusts should consider the frequency of events and judge whether their cumulative effect makes notification appropriate even if, in isolation, each event would not warrant this.
- 2.5. If there is a serious event at a secure school, the secure academy trust must notify Ofsted without delay (and within 24 hours), as per CHR (40), and must copy the appropriate person(s) from YCS (the school's YCS relationship manager) and NHS England (the school's Health and Justice Children commissioner) into any such notification.
- 2.6. Guidance on how to submit a notification to Ofsted can be found at gov.uk/guidance/tell-ofsted-about-an-incident-childrens-social-care-notification. Notifications to Ofsted can be made via this website or, in urgent situations, by calling **0300 123 1231**
- 2.7. Notifications should be evaluative and not merely a chronology of events. They should provide a brief summary of the event, the actions taken by staff and managers at the time, and further actions planned to reduce the likelihood of a similar incident occurring again. Registered person(s) and secure academy trusts are responsible for the quality of the reports completed by their staff.
- 2.8. Serious events reported to the YCS in this manner will be shared with the HMPPS National Incident Management Unit (NIMU) for information only. NIMU have no role in responding to serious incidents in secure schools.
- 2.9. Secure academy trusts must ensure that there are robust procedures and comprehensive contingency plans in place for the management of all serious incidents or emergencies (e.g. an evacuation, including a full site evacuation, fire, disease outbreak, etc). Any such incident should be appropriately recorded, and information passed on through shift handovers. These plans should be regularly tested and updated and provided to the Secretary of State when reasonably requested.

Reporting serious incidents in the trust

- 2.10. As outlined in Part 1, the Secretary of State for Justice acts as the Principal Regulator for secure academy trusts in lieu of the Charity Commission. To enable the Secretary of State to discharge this duty, secure academy trusts must report any incidents within their trust that result in, or risks, significant:
- harm to people who come into contact with the secure academy trust through its work;
 - loss of the secure academy trust's money or assets;
 - damage to the secure academy trust's property; and/or
 - harm to the secure academy trust's work or reputation.
- 2.11. The main categories of reportable incident are:
- protecting people and safeguarding incidents – incidents that have resulted in or risk significant harm to beneficiaries and other people who come into contact

with the secure academy trust through its work;

- financial crimes – fraud, theft, cyber-crime and money laundering;
- large or multiple donations from an unknown or unverifiable source, or suspicious financial activity using the secure academy trust’s funds;
- other significant financial loss;
- links to terrorism or extremism, including ‘proscribed’ (or banned) organisations, individuals subject to an asset freeze, or kidnapping of staff;
- other significant incidents, such as – insolvency, forced withdrawal of banking services without an alternative, significant data breaches/losses or incidents involving partners that materially affect the secure academy trust.

It is the responsibility of the trustees to decide whether an incident is significant and should be reported. Guidance on what should constitute such an incident can be found [here](#).

- 2.12. Where such incidents would be or have been reported by other means, e.g. by Ofsted notification or other routine or requested reporting to the MOJ, secure academy trusts do not need to duplicate reports, but should flag when such reports may have implications for compliance with charity law.
- 2.13. Per [the MOJ’s memorandum of understanding with the Charity Commission](#), if the MOJ identifies any concerns relating to the ‘compliance objective’, it may invite the Commission to use its powers of investigation and intervention. It will inform the relevant persons in NHS England of any such concerns.

Statutory reports

- 2.14. To meet its obligations under Regulation 44 of the CHR 2015, the secure academy trust must make arrangements for an “independent person” to visit the secure school at least once a month and produce a report on the conduct of the secure school, the safeguarding of children and any recommendations for improvement. Further information about independent visitors can be found in:
 - the [Guide to the Children’s Homes Regulations including the quality standards](#);
 - and the [Guide to Children’s Home Regulations amendments 2014](#).
- 2.15. As per CHR 2015 Regulation 44 (7) the independent person must share their report with Ofsted, and the local and placing authority (if requested). YCS is the sole placing authority for secure schools.
- 2.16. To meet its obligations under Regulation 45 of the CHR 2015, the registered person of the secure school must conduct a “quality of care” review at least once every six months.
- 2.17. The registered person is responsible for deciding what each quality-of-care review should focus on, based on the specific circumstances of the secure school at that time and any areas of high risk to the children that the home is designed to care for. They will also consider what information or data recorded in the secure school will form part of the evidence base for their analysis and conclusions. There is no expectation that the registered person will review the school against every part of the [Children’s Home Quality Standards](#) every six months – registered persons should use their professional judgement to decide which factors to focus on. The review should enable the registered person to identify areas of strength and possible weakness in the secure school’s care, which will be captured in the written report. The report should clearly identify any actions required for the next six months of delivery within the school and how those actions will be addressed. The whole review process and the resulting report should

be used as a tool for continuous improvement in the secure school.

- 2.18. The secure academy trust must share this quality-of-care report with Ofsted within 28 working days of generating it (CHR R 45(4)(a)). The YCS, as the sole placing authority, request that the secure academy trust share this quality-of-care report with their representative (CHR R 45 (4)(b)).
- 2.19. As set out in Children’s Homes Regulations and the funding agreement, secure academy trusts must have in place a safeguarding and child protection policy, which details a multi-agency and multi-disciplinary approach to safeguarding and child protection. The secure academy trust must review this policy on an annual basis, obtaining the approval of the Local Safeguarding Children Partnership (LSCP).
- 2.20. The secure academy trust must share the results of this review within five working days of obtaining approval of the LSCP.
- 2.21. To meet its obligations under Section 11 of the Children Act 2004, the registered person of the secure school must comply with any Section 11 audit requests made by the LSCP. The secure academy trust must share the audit report with commissioners within five working days of receiving it.
- 2.22. The government is committed to ensuring every secure setting that holds children on justice grounds produce a “restraint minimisation strategy” setting out how they propose to reduce the use of force on children and young people. This should form part of a secure school’s overall behaviour management strategy along with the statutory requirements set out in the Children’ Homes Regulations 2015 and the quality standards. Secure academy trusts must review their restraint minimisation strategy on an annual basis. This review should set out restraint practices over the preceding twelve month and how the secure school will minimise the use of restraint over the next twelve months. Secure academy trusts may find useful guidance and resources to assist with the development of this strategy at the [Restraint Reduction Network](#).
- 2.23. Secure academy trusts must share the results of their restraint minimisation review with commissioners within 28 working days of generating it.

Data monitoring

- 2.24. Secure schools are intended to drive outcomes-driven innovation and practice. Secure academy trusts must therefore put in place a robust system for monitoring outcomes in their secure school(s). This monitoring system should draw on best practice and be regularly quality assured.
- 2.25. Secure academy trusts will develop their proposed outcomes monitoring framework, with the input of the NHS England Health and Justice Children commissioner, prior to the secure school opening. This outcome framework will be shared with the commissioners prior to the secure school opening. The commissioners will review the framework and may suggest changes, or additional output or outcome measures, that the secure academy trust should consider. It is at this point that commissioners and secure academy trusts will agree the specific elements of the outcome measures which the secure academy trust will be required to report against.
- 2.26. Secure academy trusts should develop their outcomes monitoring framework with reference to the quality standards in the CHR 2015. In particular;
- **Education:** secure academy trusts should develop measures to demonstrate “good progress” by children in education – both formal and informal. In doing so, secure academy trusts will be asked to consider:

- the number, level and grade of qualifications awarded;
- “distance travelled” since admission – drawing on individual learning plans;
- children’s engagement with, and attitude to, learning/education plans;
- the proportion of children able to access their preferred courses or extra-curricular activities; and
- the quality and quantity of hours of purposeful activity that children access.
- **Positive relationships:** secure academy trusts should develop measures to demonstrate the development of children’s positive relationships with staff and between peers. In doing so, secure academy trusts will be asked to consider:
 - children’s and staff’s views on the quality of these relationships;
 - outcomes of conflict resolution; and
 - quality and quantity of pastoral time.

In addition, and although not a quality standard in the CHR, secure academy trusts should consider developing measures of effective resettlement, noting that there are system-wide dependencies for these outcomes.

Secure academy trusts will also be required to report some set measures regarding resettlement (see below).

2.27. In addition to these outcome measures, to maintain parity and comparative datasets with the rest of the youth custody system, secure academy trusts must report data according to commissioners’ templates and specifications in the following areas:

- **Health:** NHS England will require secure academy trusts and secure school health providers to report against the quarterly Health and Justice Children and Young People Indicators of Performance (CYPIPs), which monitor performance against the Healthcare Standards for Children and Young People in Secure Settings (2019). These measures are separated by the areas of the Healthcare Standards which include:
 - Entry, Assessment and Care Planning;
 - Universal Health Services;
 - Physical Healthcare and Intervention;
 - Mental Health and Neurodisability Care and Intervention; and
 - Transition and Continuity of Care
- All mental healthcare activity is required to be recorded and submitted via the monthly [NHS Mental Health Services Dataset](#). This health provider will derive information for both datasets from the nationally mandated clinical IT system for Health and Justice in the secure setting (currently “SystemOne”).
- The secure school’s substance misuse treatment provider will be required to submit quarterly data returns to the [National Drug Treatment Monitoring System](#).
- **Safety:** Secure academy trusts will be required to report safety statistics in line with the established reporting procedures and counting rules used in the CYPSE. These measures include:
 - the number of assault incidents;
 - the number of “use of force” incidents;

- the number of separation incidents; and
- the number of self-harm incidents.
- **Resettlement:** Secure academy trusts will be required to report information about the resettlement of children into the community in line with the established reporting procedures and counting rules used in the CYPSE. This includes:
 - the % of children discharged into suitable accommodation'
 - the number of children with accommodation four weeks before release;
 - the number of children with education, training and employment arranged four weeks before release; and
 - the number of releases on temporary license.
- **Complaints:** Secure academy trusts will be required to report information about complaints made via their internal complaints policy and their external advocacy contract. This will include:
 - the number of complaints made by, or on behalf of, children;
 - the number of complaints investigated; and
 - the proportion of those upheld.
- **Safeguarding:** Secure academy trusts will be required to report information about safeguarding referrals. This also applies to any safeguarding referrals made by advocates. This will include:
 - the number of external child protection investigations; and
 - the number of child protection referrals to the local authority.
- **Equalities:** Secure academy trusts must present all outcomes alongside demographic data where possible so they can be filtered for the monitoring of any disparities.
- **Staffing:** Secure academy trusts will also be required to provide some information about the number of staff they employ. This will include:
 - the number of full time equivalent (FTE) staff; and
 - the number of non-effective hours of FTE staff.
- **Financial:** Alongside management and financial reporting information as set out in the Secure Schools Finance Handbook, secure academy trusts should also report the following information to support assessment of financial performance:
 - the % of total spend on teaching/non-teaching staff;
 - the % of total spend on senior leadership team;
 - the spend per pupil for non-pay expenditure lines (e.g., catering, ICT, estates management, business administration, energy, and curriculum supplies);
 - the invoice settlement ratio i.e. the average days to pay;
 - the working capital ratio;
 - and the cashflow adequacy i.e. the operating cashflow divided by current liabilities.

[NB: this list is not intended as exhaustive, and secure academy trusts may propose to develop

other outcomes measures in addition to those listed above. The methodology and counting rules that commissioners use centrally for collating data may change, and secure academy trusts should ensure they comply with these changes.]

- 2.28. Secure academy trusts should provide commissioners with a report containing all the required reporting metrics every month, within five working days of that month's end, unless an alternative arrangement is agreed with commissioners. The format of this report, and the process for submitting it, will be agreed between commissioners and secure academy trusts before secure school opens.
- 2.29. As part of this agreement, secure academy trusts, secure school health providers, the YCS and NHS England should work together to create single data reports for all reporting requirements, avoiding duplication where possible.
- 2.30. These reports should aim to be evaluative and not merely a list of data. They should provide a brief summary of, and endeavour to provide an explanation for, any information potentially of interest or concern to the secure academy trust and commissioners, and any action being taken to remedy areas of concern. The registered person is responsible for the quality of the reports completed by their staff.

2.31. The table below summarises the reporting requirements within this section.

Reporting requirement	Responsibility	Frequency	Timescale
Ofsted Notifications of serious incidents (as defined in CHR:2015 guidance)	Registered Person	As required	Within 24 hours of the incident.
Regulation 44 Reports - Independent Person Visit Report (CHR:2015 section 44)	Independent Person	Monthly	Within 5 working days of the report being shared with the secure school.
Regulation 45 Reports – Quality of Care (CHR:2015 section 45)	Registered Person	Every six months	Within 5 working days of the report being shared with the secure school.
Safeguarding Policy Review Reports	Registered Person	Every year	Within 5 working days of the report being shared with the secure school.
Section 11 Safeguarding Audit Reports	Local Safeguarding Children Partnership	Every three years	Within 5 working days of the report being shared with the secure school.
Restraint Minimisation Strategy	Registered Person	Annually	Within 20 days of the end of the contract year
Agreed performance data and management information reporting	Registered Person	Monthly	Within 5 working days following completion of the month prior.
Other management information reasonably required by the authority	Registered Person	As required	As stipulated on request

Engagement with commissioners

- 2.32. Following receipt of any of these reports, commissioners may have follow-up questions, request further information, or request a review meeting to interrogate the information further. Secure academy trusts must respond to all such reasonable requests within the specified timeframes.
- 2.33. Secure academy trusts must ensure that their secure school's designated accountable person, or an appropriate deputy, is available to attend required assurance review meetings. It is expected that someone from the secure school's board of trustees and/or leadership team will attend regular informal engagement meetings with the commissioners. Formal assurance reviews will be less frequent, and risk- and outcomes-led. This may mean they will be more frequent and/or regular during the first few years of a secure school's opening and/or at other times of significantly increased risk.
- 2.34. Prior to a secure school opening, the secure academy trust and commissioners will agree the format, terms of reference and frequency of these informal and formal engagement routes. Secure academy trusts should expect to engage in some form of assurance engagement meeting around once a month.

Part 3: Performance intervention and termination

This part of the handbook explains the process for assessment, capability building and intervention in the case where commissioners have concerns about the performance of a secure school. It sets out the roles and obligations of the various parties during the “ladder of interventions” process. It does not replace and is separate to statutory enforcements from other stakeholders, e.g. Ofsted/CQC.

The ladder of interventions

- 3.1. The assurance framework for secure schools is intended to identify and address emerging performance issues before they become severe enough to warrant a termination warning notice. It relies on collaborative assessment of the available performance intelligence and a tiered approach to intervention, ranging from investigative monitoring to capability building and, ultimately, formal directions.
- 3.2. Secure academy trusts should integrate their commissioned health provider into their internal assurance processes and work collaboratively with them when monitoring data, developing reports, and delivering performance improvement plans. The intervention process set out in this part of the handbook refers to the process taken with regard to secure academy trusts and their delivery of integrated services. The secure school’s healthcare provider will be contracted by NHS England on the NHS Standard Contract which has its own contractual intervention mechanisms. It is the role of the commissioners to ensure these two processes are co-ordinated so that the appropriate action is being taken by the appropriate route in each circumstance. If a secure academy trust has concerns about the performance of the healthcare provider, it must raise these directly with NHS England and inform the YCS.
- 3.3. The ladder of interventions process, with no-exhaustive illustrative examples of triggers for each stage, is set out in Annex A.

Phase A: Assessment

- 3.4. The reporting and engagement expectations outlined in Part 2 of this handbook form the basis of this collaborative assessment. It is a continuous process of information monitoring, evaluation and improvement led, in the first instance, by the secure academy trust. It is their responsibility to share their assessment of the secure school’s performance, including any areas of concern and their plans to address them, with the commissioners on a regular basis in the formats and timescales agreed as per Part 2.
- 3.5. Secure schools are small but challenging and dynamic environments, so reliance on data alone does not necessarily provide a reliable picture of the quality-of-service delivery – it is important to understand the context behind trends or anomalies. Commissioners will regularly review the trust’s assessment, along with other scrutiny intelligence (e.g. information received from inspectorates, advocates or other parties), with the trust, taking an “explain or change” approach. They will suggest areas for improvement, share best practice examples and interrogate any areas of concern and may require the trust to provide further information to aid analysis.
- 3.6. Outside of this routine assessment, secure academy trusts must make commissioners aware of any performance concerns they have at their secure school(s) that may constitute one of the “triggers” set out in the below table, and any plans the secure academy trust has to address these concerns.

- Where concerns would constitute serious incidents as set out in the guidance to Regulation 40 of the CHR 2015, secure academy trusts must report these according to the guidance set out in “Reporting Serious Incidents” in Part 2 of this handbook.
- To enable effective decisions about placements and safely managing children across the youth custody estate, if there are concerns relating to the school’s ability to maintain safety, minimise violence or safeguard children, secure academy trusts must report these concerns within 24 hours of them becoming apparent.
- If concerns relate to the secure school’s ability to maintain outcomes for children, such as it pertains to maintaining a “good” or better inspection rating, secure academy trusts should report these concerns within five working days of them becoming apparent.

3.7. When considering whether instances of poor performance or a secure academy trust’s failure to comply with its obligations are isolated incidents or indicate more systemic weaknesses that may require more substantial intervention, commissioners should consider:

- the seriousness and extent of any failure;
- the overall standard of education and care provided by the secure academy trust across its constituent secure schools, taking into account the individual circumstances of each secure school;
- the secure academy trust’s record on secure school improvement; and
- the quality of strategic governance of the secure academy trust.

Phase B: Building Capability

3.8. If this assessment suggests the secure school must make improvements to service delivery to improve outcomes, secure academy trusts will be required to provide commissioners with a performance improvement plan within a timescale agreed by commissioners. This plan should have clear, measurable and achievable aims with defined timescales, and set out how they are to achieve the objectives from the action plan. Secure academy trusts will own this plan and be accountable to commissioners for progress against it. Commissioners will review any proposed performance improvement plan and, if they do not consider it a viable proposal for resolving the identified issues, may request changes for incorporation and/or suggest support or expertise the trust may be able to access. Secure academy trusts may directly request further support, evidencing this request, as part of their improvement plan. Commissioners will consider the request and may, but shall not be obliged to, broker additional performance support.

Phase C: Directive Approach

3.9. Commissioners will form their own view of the suitability of the secure academy trust’s performance improvement plans, their capacity and capability to deliver them, and progress made against them. If commissioners are not satisfied the secure academy trust’s plans are suitable to address areas of concern, they may issue a “direction” to the secure academy trust, requiring them to take specific action within a timebound period. This may include making improvements to the school’s governance or leadership, changes to the school’s policies or procedures or improvements to its subcontracted services. Any such direction will be provided with a summary of the

evidence and commissioners' justification for issuing it. These directions effectively serve as "pre-warning notices", the final stage of intervention before formal action under the funding agreement.

- 3.10. Where a secure academy trust is found to be non-compliant with its statutory duties in respect of its secure children's home designation (e.g. per the Children's Home Regulations 2015 or the Care Standards Act 2000), Ofsted's [social care enforcement policy](#) has detailed information about the enforcement options available, which the secure academy trust must address promptly. Note that these include suspension and cancellation of registration – powers which can be used at very short notice. Likewise, any non-compliance within the healthcare provision, CQC can use enforcement powers under the Health and Social Care Act 2008, as amended by the Care Act 2014, as described in their [Enforcement Policy](#). As the sole placing authority, YCS would make suitable alternative arrangements for children as required.
- 3.11. If secure academy trusts do not comply with these directions within the stated timescale, if issues persist and risk becoming chronic, or they become more acute, the Secretary of State may issue a termination warning notice ("**Phase D: Termination Warning Notice**").

Phase D: Termination Warning Notice

- 3.12. Clause 6 of the model funding agreement sets out the circumstances under which the Secretary of State may issue a termination warning notice for the funding agreement on the grounds of poor performance. A termination warning notice may be issued when performance of a secure school is of such a concern that the Secretary of State considers that significant improvements must be made within a timebound period, or else the service terminated, to fulfil its duty of care to children. The potential triggers set out in the model funding agreement are:
- the secure academy trust has breached the provisions of the funding agreement;
 - there is an unacceptably low standard of education, health, wellbeing, or care;
 - there has been a serious breakdown in the way the secure school is managed or governed;
 - the safety of pupils or staff is threatened;
 - following an inspection under the social care common inspection framework, Ofsted judges a secure school to be "inadequate";
 - the secure school or secure academy trust receives a statutory enforcement notice from inspectorates; and
 - following registration, and on the advice of Ofsted, the Secretary of State does not grant renewed approval for the secure school to be used as secure accommodation for the purpose of restricting the liberty of children.
- 3.13. This "ladder of interventions" approach is designed to ensure the most appropriate approach to performance intervention is taken in any given scenario, depending on the severity of the performance concern. In the majority of cases, this will involve progressing through the tiers of intervention as they are set out, with the view to resolving any concerns at the lowest tier possible. However, the Secretary of State may escalate measures up to and including "Phase D" without prior recourse to the

previous tiers where there are pressing concerns. Examples of circumstances when urgent action may be required to be taken at this tier include, but are not limited to:

- a secure school has received an “inadequate” rating overall or an “inadequate” rating for help and protection from inspectorates and there are serious concerns about the ability of the school to address these issues adequately;
- serious and/or widespread failings in the safeguarding arrangements at the school have been found by commissioners, inspectorates or safeguarding partners;
- Ofsted issues a notice that suspends provision or imposes significant conditions on a secure school’s registration as a children’s home;
- Ofsted restricts the available accommodation at the secure school;
- Following an inspection by Ofsted accompanied by an independent specialist architect with the suitable skills, that focusses on the suitability of the building, the Secretary of State receives clear advice from Ofsted that the school is not suitable to continue to be licenced to restrict the liberty of children;
- multiple and/or serious security failings such as escapes, absconds or widespread access to illicit substances.

3.14. The termination warning notice served will specify:

- the action the secure academy trust must take;
 - the date by which the action must be completed; and
 - the date by which the secure academy trust must make any representation or confirm that it agrees to undertake the specified action.

3.15. The Secretary of State will consider any representations from the secure academy trust which it receives by the date specified in the termination warning notice. The Secretary of State may amend the termination warning notice to specify further action which the secure academy trust must take, and the date by which it must be completed.

3.16. If the Secretary of State is satisfied that the secure academy trust has not responded to the termination warning notice as specified or has not completed the action required in the termination warning notice within the stipulated timescales, they may serve a termination notice. This will specify the date by which the funding agreement and lease will come to an end and the exit and transition planning arrangements.

Other termination routes

3.17. There may be certain circumstances when there are failings in the performance, management or governance of a secure school or secure academy trust so severe it would not be reasonable to assume they can be remedied to the Secretary of State’s satisfaction within a safe and appropriate timeframe. These are unlikely to be isolated minor incidents, rather significant issues attributable to systemic failings in governance and calling into question the capability of the secure academy trust to remedy them satisfactorily. The model funding agreement contains clauses (see clause 6.20 onwards) which allow the Secretary of State, in these “irremediable” circumstances, to proceed straight to termination without recourse to the ladders of intervention. These include if:

- the trust is found to be defrauding the government or conducting other

serious financial misdemeanours;

- the schools the trust manages are subject to serious security breaches (such as corruption, escapes or absconds) that indicate systemic failings in governance; or
- there is serious safeguarding malpractice or criminal activity, by staff or students, in the school, that significantly increases the risk of, or results in, harm to staff, students or the public.

In these circumstances, the Secretary of State may issue a termination notice specifying the date by which the funding agreement and lease will come to an end, and the exit and transition planning arrangements.

- 3.18. Further provisions for the termination of a funding agreement relating to the governance of the secure academy trust, its accounts and trustees are also set out in clause 6 of the funding agreement.
- 3.19. Either the secure academy trust or the Secretary of State may terminate a funding agreement without cause with a minimum of the notice period for secure 16 to 19 academies set out in section 2(2)(a) of the Academies Act 2010. Secure academy trusts must have exit planning arrangements in place to facilitate a termination of the funding agreement, and transfer or closure of the site within this period.

Dispute resolution

- 3.20. When it is working properly, the essence of the performance assurance relationship between secure academy trusts and the commissioners is one of mutual trust and accountability. When problem diagnosis and resolution is collaborative, honest and frank, it can often be done more quickly, more effectively and at lower cost to the taxpayer. However, there will inevitably be the potential for disagreements as to respective responsibilities or the interpretation of the funding agreement and its documents. To avoid such disagreements irrevocably destabilising the relationship between the secure academy trust and the commissioners, they will be referred to a formalised disputes resolution procedure as set out in Annex B below.

Annex A: The Ladder of Interventions

<u>Phase</u>	<u>Triggers</u>	<u>Actions</u>
<p>Phase A: Assessment</p>	<p>Assurance intelligence is received by the Secretary of State for Justice, YCS and/or NHS England (hereafter “commissioners”) (e.g. from CQC, Ofsted, Reg 44 independent visitor, Charity Commission, the commissioned health provider, secure academy trust self-assessment and reporting data) that highlights potential areas of concern.</p> <p>Examples of assurance intelligence that may raise concern include (but are not limited to):</p> <ul style="list-style-type: none"> • a spike in incidents of violence, self-harm, or use of force/restraint; • concerns raised by CQC and/or Ofsted (e.g. “requires improvement”) in one or more judgment categories; • concerns raised by the Prison and Probation Ombudsman; • a secure school failing to report the required information set out in the funding agreement and associated handbooks; • a secure school raising concerns or requesting support directly with commissioners; • a sustained or significant dip in reported outcomes e.g. a decrease in learner progress; • a child absconds; • a serious safeguarding incident; • a child is found with prohibited substances/items; 	<p>The commissioners will investigate any areas of concern either by direct engagement with the secure school’s leadership team or by requesting further information or reports. This may include a diagnosis of the root causes of the areas of concern, whether these causes are substantive or persistent, the school’s plans to address any areas of concern and whether any further action is required. This may include the deployment of a monitor to conduct a diagnostic visit.</p> <p>Secure academy trusts must comply with all reasonable requests by commissioners for information, access, or engagement within the stipulated timeframe.</p> <p>Following the assessment of any areas of concern, the commissioners may deem remedial action unnecessary or may escalate intervention to Phase B, C or D, at their reasonable discretion, according to the severity of the assessment.</p>

	<ul style="list-style-type: none"> • data shows disparity in outcomes for groups of children with protected characteristics without clear plans to address this; and/or • a secure school is consistently not maintaining appropriate staffing levels (including struggling to recruit or retain staff, or high levels of non-effective time); and/or • there is cause for concern around the financial performance of the school and/or the secure academy trust's compliance with requirements set out in the Secure Schools Finance Handbook. 	
Phase B: Build Capability	<p>Scenarios in which intervention may be escalated to this phase include (but are not limited to), if assessment of assurance intelligence shows that:</p> <ul style="list-style-type: none"> • the overall standards of education, care, leadership, or other services requires improvement to address areas of concern; • areas of concerns persist or have not been adequately explained or addressed by the secure academy trust; • inspectorates have raised issues of capability or capacity at the school; or • additional concerns to those originally raised emerge, compounding the performance of the school. 	<p>If intervention is escalated to this phase, secure academy trusts must, in conjunction with commissioners as appropriate, develop a performance improvement plan with clear, measurable and achievable aims with defined timescales, and set out how they are to achieve the objectives from the action plan. The commissioners will stipulate a timeframe by which this improvement plan must be submitted to them for review.</p> <p>This plan is owned by the secure academy trust and actions should draw on the secure academy trust's (or, if applicable, its parent organisation's) existing resources first and foremost. Secure academy trusts will need to justify any need for additional support from commissioners or external expertise that will require additional funding.</p> <p>The commissioners will review the areas of concern along with the secure academy trust's action plan. They may then offer additional areas of improvement, where they are not satisfied the improvement plan will</p>

		<p>resolve the concern(s), which secure academy trusts should consider.</p> <p>If concerns have been raised by inspectorates/independent visitors, the secure academy trust may be given a list of requirements or recommendations to implement and within what timeframe the commissioners expect those improvements to be delivered. Secure academy trusts must implement such recommendations within agreed timescales and within their allocated resources</p> <p>NHS England may take such action as it deems necessary under its contract with the health provider in the event there are performance issues in relation to the health provision. Secure academy trusts must work collaboratively with their health provider to realise performance improvement plans.</p> <p>Commissioners will review progress against performance improvement plans at timebound points. Remedial action may be deemed on track or intervention may be escalated to Phase C or D, as the commissioners see fit, according to the severity of the assessment.</p>
<p>Phase C: Directive Approach (pre-warning notice)</p>	<p>Scenarios in which intervention may be escalated to this phase include (but are not limited to), if assessment of assurance intelligence shows that:</p> <ul style="list-style-type: none"> • performance improvement plans are inadequate or incapable of addressing the areas of concern to the commissioners' satisfaction; 	<p>If intervention is escalated to this phase, commissioners may make direct requests for the secure academy trust to make specific timebound changes within the secure school ("directions"). Secure academy trusts must comply with these directions.</p> <p>These directions could include, but are not limited to:</p> <ul style="list-style-type: none"> • improvements to governance or leadership;

	<ul style="list-style-type: none"> • recommendations and actions from the performance improvement plan have not been met or taken within agreed timescales; • action has been taken but does not satisfactorily address the performance concern within the agreed timescales; • there has been a breakdown in communication and collaborative working between commissioners and the secure academy trust; • the school has been judged as “requires improvement” overall in more than two consecutive inspections; • serious incidents are found to have not been reported accurately or on time; • the effectiveness of leadership and management is continually deemed inadequate; or • the safety of children is considered persistently or acutely at risk. 	<ul style="list-style-type: none"> • improvement in financial performance through issue of a “Financial Notice to Improve” (as set out in the Secure Schools Finance Handbook); • changes to policies or procedures; or • requiring action is taken regarding a subcontracted provider. <p>Ofsted/CQC may take such action as it deems necessary under their statutory powers. This may include a decision to inspect based on information shared with/received by them.</p> <p>NHS England may take such action as it deems necessary under its contract with the health provider in the event there are performance issues in relation to the health provision. Secure academy trusts must work collaboratively with their health provider to realise performance improvement plans.</p> <p>Commissioners will review compliance against these directions at timebound points. If the directions have not been sufficiently met, commissioners may escalate intervention to Phase D.</p>
<p>Phase D: Formal Action (minded to terminate)</p>	<p>Intervention may be escalated to this phase if the commissioners are sufficiently concerned about the performance of a secure school (regardless of whether or not steps A, B, and C have been followed first).</p> <p>Scenarios under which intervention may be escalated to this phase include, but are not limited to:</p> <ul style="list-style-type: none"> • the secure academy trust has not sufficiently met the conditions set out in Phase C to the specified timescales and/or has not provided enough 	<p>The Secretary of State can move to formal action in accordance with the funding agreement.</p> <p>The Secretary of State may serve a termination warning notice.</p> <p>The termination warning notice served will specify:</p> <ul style="list-style-type: none"> • The action the secure academy trust must take • The date by which the action must be completed

	<p>information and evidence for commissioners to be confident that improvements will be made;</p> <ul style="list-style-type: none"> • the secure school has been judged as “inadequate” overall in a formal inspection or receives an “inadequate” judgment regarding the help and protection of children; • the school is served with a statutory enforcement notice from Ofsted or CQC; • following an initial registration inspection, the Secretary of State does not grant a renewed licence for the restriction of liberty; • the secure academy trust has breached the provisions of the funding agreement; • arrangements for safeguarding are considered ineffective and/or children are considered acutely or chronically at risk; • the secure academy trust’s evaluation of the school’s strengths and weaknesses are not accurate; or • there has been a serious breakdown in how the school is managed or governed. 	<ul style="list-style-type: none"> • The date by which the secure academy trust must make any representation, or confirm that it agrees to undertake the specified action <p>The Secretary of State will consider any representations from the secure academy trust which it receives by the date specified in the termination warning notice. The Secretary of State may amend the termination warning notice to specify further action which the secure academy trust must take, and the date by which it must be completed.</p> <p>NHS England may take such action as it deems necessary under its contract with the health provider in the event there are performance issues in relation to the health provision. Secure academy trusts must work collaboratively with their health provider to realise performance improvement plans.</p> <p>Ofsted/CQC may take such action as it deems necessary under their statutory powers.</p>
<p>Phase E: Next steps (termination letter)</p>	<p>Intervention may be escalated to this phase if the Secretary of State is satisfied that the secure academy trust has not responded to the termination warning notice as specified or has not completed the action required in the termination warning notice within the stipulated timescales.</p>	<p>The Secretary of State may serve a termination notice, signalling termination of the funding agreement and the lease.</p> <p>NHS England may take such action as it deems necessary under its contract with the health provider in the event there are performance issues in relation to the health provision.</p> <p>Ofsted/CQC may take such action as it deems necessary under their statutory powers.</p>

Annex B: Dispute Resolution Procedure

- 4.1. Should any Dispute arise between the secure academy trust and the Secretary of State (“the Parties”) outside of the process outlined in the ladder of interventions, the Parties shall attempt in good faith to agree a resolution within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the first point of escalation in the secure academy trust and the first point of escalation at MOJ.
- 4.2. Nothing in this dispute resolution procedure prevents the Parties seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other party to do any act. The obligations of the Parties will not change should a dispute occur.
- 4.3. If the dispute cannot be resolved by the Parties by negotiation either party may proceed under the mediation procedures set out as follows:
 - 4.3.1. a neutral adviser or mediator (the “Mediator”) shall be chosen by agreement of the Parties. If they are unable to agree upon a Mediator within 10 Working Days, the Party which requested mediation may apply to the Centre for Effective Dispute Resolution to appoint a Mediator;
 - 4.3.2. following the appointment of the Mediator the Parties shall meet with them as soon as reasonably possible in order to agree a programme for the exchange of all relevant information and the structure to be adopted for mediation. Either Party may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;
 - 4.3.3. unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
 - 4.3.4. if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
 - 4.3.5. failing agreement, any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause 4.4.
- 4.4. If any Dispute is not resolved during mediation, or within such a period after mediation as the Parties agree, either Party may refer the Dispute to arbitration under the arbitration procedure set out as follows:
 - 4.4.1. Any arbitration procedure is governed by the Arbitration Act 1996 and the Party referring any Dispute to arbitration shall provide notice to the other Party (the “Arbitration Notice”) stating:
 - 4.4.1.1. that the dispute is referred to arbitration; and
 - 4.4.1.2. providing details of the issues to be resolved.
 - 4.4.2. the London Court of International Arbitration (“LCIA”) procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and the

decision of the arbitrator is binding on the Parties in the absence of any material failure to comply with such rules;

- 4.4.3. the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- 4.4.4. if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued the arbitrator shall be appointed by the LCIA;
- 4.4.5. the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.