

# **Intensive Support and Monitoring System**

## **Guidance on the use of Movement Restriction Conditions (MRCs) in the Children’s Hearings System (CHS)**

**Revised Guidance – October 2014**

## **Intensive Support and Monitoring System**

### **Guidance on the use of Movement Restriction Conditions (MRCs) in the Children's Hearings System (CHS): Community-based disposals as an alternative to secure accommodation**

#### Preface

The purpose of this guidance document is to provide an overview of the key factors that ought to be taken into account when consideration is being given to the use of a Movement Restriction Condition (MRC) in the Children's Hearing System (CHS). The document is intended primarily for Lead Professionals (generally social workers) who have a statutory responsibility to present information to Children's Panel Members in respect of young people involved in offending behaviour of a serious nature or behaviours which places themselves and/or others at risk of serious harm<sup>1</sup>. The guidance should also be of value to other professionals and practitioners (including those in the voluntary sector) working with troubled and troubling young people, even where they do not hold specific statutory responsibilities. While the focus of the guidance is upon the mechanics and practicalities of MRCs it is imperative that implementation authorities do not lose sight of the importance of providing vulnerable young people and their families with a broad and varied range of support and assistance irrespective of whether concerns are predominantly welfare-oriented, predominantly related to offending behaviour or, as is commonly the case, concerns stem from an interplay of the two.

This guidance is advisory in nature and practitioners should be cognisant of complementary local policies and procedures. It is not exhaustive but does aim to capture the principal features of the process before, during and after the point at which substantive decisions are made in relation to MRCs. With the advent of the [Children's Hearings \(Scotland\) Act 2011](#) (henceforth 'the Act'), there is an evident need for contemporary guidance in this particular policy and practice area. Considerable change has occurred since it first became possible for young people to be made subject to electronic monitoring (EM) through the CHS in Scotland. Guidance needs to reflect in its focus and tone this new legal environment in which practitioners are operating. At the current juncture, MRCs rely on Radio Frequency (RF) technology used by the Monitoring Service Provider and Global Position System (GPS) technology is not utilised.

---

<sup>1</sup> SCRA and Children's Hearing Scotland have prepared separate guidance for both Children's Reporters and Children's Panel Members to assist and to guide them in relation to their roles and responsibilities in this area, specifically in Scottish Children's Reporter Administration (SCRA) (2014) [Practice Direction 25](#) and Children's Hearings Scotland (2013) [Practice and Procedure Manual](#). It is also recognised that decisions relating to MRCs may on occasion be made in the Sheriff Court as part of an appeal process but decisions of the CHS are the primary focus of this document.

## Definitions

- 1.0 A Movement Restriction Condition (MRC) refers to the restriction placed on a young person's freedom of movement through the application of electronic monitoring (EM) technology<sup>2</sup>. This guidance is concerned solely with MRCs imposed through the Children's Hearings System (CHS). Although young people under the age of 18 may be subject to other forms of EM – through the Court by means of a Restriction of Liberty Order (RLO) or as a condition of their release from custody on a Home Detention Curfew (HDC) or as a specific release license condition – these fall outwith the ambit of the current guidance.
- 1.1 The decision to make a young person subject to an MRC cannot be taken separately from a decision about related packages of support, their nature, scope and duration. However the terms Intensive Support and Monitoring Service (ISMS) and Intensive Support Service (ISS) will not be used in the current guidance as these evolved in the period prior to the Act coming into effect. While individual implementation authorities will shape and define services to meet local needs and may continue to operate services so named, this guidance aims to reflect contemporary legal terminology.

## *Legislation, regulations and guidelines*

- 2.0 It is essential that practitioners are conversant with the terms of the legislation under which MRCs are imposed. The key sections of note in the Act are:
- s.83 – Meaning of “compulsory supervision order”
  - s.84 – Meaning of “movement restriction condition”
  - s.86 – Meaning of “interim compulsory supervision order”
  - s.125 – Compulsory supervision order: requirement to review
  - s.150 – Movement restriction conditions: regulations etc.
- 2.1 While the Act outlines the overarching statutory framework for MRCs, it is equally important for practitioners to be familiar with [The Children's Hearings \(Scotland\) Act 2011 \(Movement Restriction Conditions Regulations\) 2013](#).
- 2.2 Outwith the Scottish context, familiarity with a range of significant European and International Conventions, Rules, Standards and Guidelines concerning the rights of children and young people, specifically in the youth justice context, is also likely to be beneficial to practitioners. The key Conventions of note are:

---

<sup>2</sup> MRCs are often referred to in colloquial terms as “tags” and individuals may be described as being “tagged” or “on a tag”. The monitoring device is generally attached to a young person's arm or leg. A monitoring box is placed in the young person's address to monitor compliance.

- [The United Nations Convention on the Rights of the Child \(UNCRC\) \(1989\)](#)
- [The European Convention on Human Rights \(ECHR\) \(1950\)](#)

Meanwhile the UN Committee on the Rights of the Child also makes General Comments periodically on thematic issues. The most noteworthy of these is [General Comment No. 10 \(2007\) – Children’s rights in juvenile justice](#).

It is also important to consider the importance of certain international instruments passed by the UN General Assembly and other UN bodies, specifically:

- [The UN Standard Minimum Rules on the Administration of Juvenile Justice \(‘the Beijing Rules’\) 1985](#);
- [The UN Standard Minimum Rules for Non-custodial Measures \(‘the Tokyo Rules’\) 1990](#);
- [The UN Guidelines on the Prevention of Juvenile Delinquency \(‘the Riyadh Guidelines’\) 1990](#); and,
- [The UN Rules for the Protection of Juveniles deprived of their Liberty \(‘the Havana Rules’\) 1990](#);

As a member of the Council of Europe, Scotland (as part of the United Kingdom) is also expected to adhere to the rules and recommendations of the continent’s leading human rights organisation. The Council of Europe’s Committee of Ministers has issued numerous rules and recommendations of note, specifically:

- [Recommendation No. R \(92\) 16 on the European Rules on community sanctions and measures](#);
- [Recommendation Rec \(2003\) 20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice](#);
- [Recommendation CM/Rec \(2008\) 11 on the European rules for juvenile offenders subject to sanctions and measures \(‘the European Rules’\)](#);
- [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice 2010](#); and,
- [Recommendation CM/Rec \(2014\) 4 on electronic monitoring](#).

2.3 While not an exhaustive summary, familiarity with the provisions of the documents outlined above should help to reinforce to practitioners several key points:

- to deprive any young person under the age of 18 of his liberty in any form constitutes a significant restriction that should only be imposed as a “last resort”<sup>3</sup> and for the shortest period possible.

---

<sup>3</sup> Article 37(b) of the UNCRC.

- to promote longer term desistance from crime, EM “should be combined with other professional interventions and supportive measures aimed at the social reintegration of offenders”<sup>4</sup>.

### Conditions for imposition of MRCs

- 3.0 A Children’s Hearing cannot include an MRC in an order unless it is fully satisfied that one or more of the conditions mentioned in s.83(6) of the Act is met, specifically:
- (a) that the child has previously absconded and is likely to abscond again and, if the child were to abscond, it is likely that the child’s physical, mental or moral welfare would be at risk,
  - (b) that the child is likely to engage in self-harming conduct,
  - (c) that the child is likely to cause injury to another person.
- 3.1 These conditions are identical to those that must be met prior to the inclusion in an order of a secure accommodation authorisation as outlined in s.83(5) of the Act. The informal historical practice of referring to the “secure criteria” might usefully therefore be updated to the “secure and MRC criteria”.
- 3.2 The other significant feature of the legislation is the explicit requirement outlined in s. 83(5)(c) that prior to the inclusion in an order of a secure accommodation authorisation “the other options available (including a movement restriction condition)” have been considered. It is essential that practitioners are aware of this provision and ensure that the process of considering alternatives to secure accommodation is not cursory but thorough, robust and transparent.

### Assessment

- 4.0 Assessment is a fundamental task that is a daily feature of social work practice and it is rightly recognised as a process rather than an event. The assessment process that should precede the recommendation of an MRC ought not to be a discrete, standalone activity.
- 4.1 In accordance with Getting It Right For Every Child (GIRFEC) and the related adoption of the SHANARRI indicators as outcome measures for young people, most implementation authorities have now developed standardised reporting templates for Children’s Hearings. These assessment reports, along with chronologies and the Child’s Plan should provide a satisfactory template for providing information about the suitability and appropriateness of an MRC for a young person. As such, a separate MRC Assessment Report or equivalent need not necessarily be produced (although practice in individual implementation authorities will vary).

---

<sup>4</sup> CM/Rec(2014)4, III, 8.

- 4.2 There is no specified minimum length of time that an assessment, which ultimately leads to a recommendation for an MRC to a Children's Hearing, should take. The priority for Lead Professionals should be to provide sufficient, well-evidenced information to enable a Children's Hearing to make an informed and defensible decision. In situations where a Lead Professional has a longstanding relationship with a young person and his parent(s)/carer(s), it may be that such information can be collated relatively rapidly.
- 4.3 While it is not possible to provide a definitive list of all of the issues that ought to be addressed in a report to a Children's Hearing which recommends including an MRC in an order, the following points merit consideration:
- **Age:** There is no lower age limit for an MRC. However, we would not expect that young people aged under 12 years would be made subject to an MRC given their likely capacity to engage with interventions.
  - **Gender:** There is no strong evidence base to suggest outcomes are radically different (better or worse) for young people subject to an MRC if they are female as opposed to male. However the package of support in place and the focus of any interventions to promote desistance delivered in conjunction with the MRC may be tailored to the gender of the young person.
  - **Views of the young person:** The importance of taking into account the young person's views in relation to the imposition of an MRC and reflecting these views in any report cannot be overstated. Aside from the need to comply with s.27 of the Act, the prospect of an MRC contributing to positive behaviour change is likely to be extremely low if the young person has not articulated some degree of commitment to adhere to the disposal. It is incumbent on the lead professional to articulate clearly what an order withan MRC requirement would entail for a young person. It is also necessary for the Lead Professional to be clear about the reality of the alternatives to an MRC, including the potential for recourse to secure accommodation. Whilstit is competent to make an MRC without the consent of the child,it is important to distinguish between the competence of a disposal and its ethical and practical viability. There would appear to be little merit in a Children's Hearing pursuing the option of an MRC if a young person is opposed to the proposal.
  - **Views of the parent(s)/carer(s)/family:** As with the informed consent of the young person, the absence of parental/carer consent to the imposition of an MRC is likely to make any such disposal unworkable. The Lead Professional must ascertain the views of the parent(s)/carer(s) at any address to which a young person may be restricted as part of a curfew. Furthermore, it is important that the Lead Professional gives meaningful consideration to the manner in which the young person's presence at an address for a specified

number of hours may have a negative impact on relationship dynamics in the home e.g. if the young person has a volatile relationship with a sibling at the address.

- **Exhaustion of alternatives:** While a Children's Hearing has the authority to include an MRC in an order it should only do so if there is satisfactory evidence presented that all reasonable alternatives have been exhausted. Individual implementation authorities will vary in terms of the breadth and diversity of services available to young people and their families who present with troubled and troubling behaviour, from services available on a voluntary basis to those services to which access is restricted subject to assessments of risk and need. To claim that alternatives to an MRC have been exhausted, the Lead Professional should be in a position to provide evidence that other unsuccessful strategies had been in place for a sufficient length of time and had been appropriately targeted and sequenced without producing a positive outcome.

- **Public protection:** Decisions by a Children's Hearing inconsistent with the need to safeguard and promote the welfare of a young person as a paramount consideration<sup>5</sup> may be made when it is necessary to protect members of the public from harm<sup>6</sup>. If a young person's behaviour has reached the level where concerns about serious harm to others are identified as imminent and credible, it seems doubtful that a community-based disposal of any form would be deemed sufficiently robust to address the assessed risks and needs.

## Support

- 5.0 A variety of factors appear to contribute to positive outcomes for young people involved in offending or other difficult or challenging behaviour who subsequently make changes in their lives.. Perhaps most significant is the individual's personal resilience and motivation to change, closely followed by the support available to him from family and friends. In those instances where professionals such as social workers contribute positively in some way to the change process, most often this stems from the quality of the relationship they have been able to build with the young person. Consistency, honesty, fairness and being respectful are some of the critical foundations upon which strong relationships grow. As such, when consideration is being given to the vital package of support around which any MRC for a young person should be built, it is the quality rather than the quantity of support that is likely to prove decisive in promoting desistance. There is no minimum number of hours of support that must be provided before an MRC can be imposed but there is an

---

<sup>5</sup> s.25 of the Act.

<sup>6</sup> s.26 of the Act.

expectation that “care, education and health needs”<sup>7</sup> will be addressed. Where possible the implementation authority should ensure that the volume and intensity of support is not at such a level that the young person and his parent(s)/carer(s) perceive it to be overwhelming or unmanageable. However as a provision which constitutes a direct alternative to secure accommodation, the package of support delivered in tandem with an MRC must reflect the highly intrusive nature of the measure.

- 5.1 All young people up to the age of 16 are legally required to be in full-time education. In considering how the time of a young person subject to an MRC might be managed therefore it is important to consider the role to be played by education. As such, close liaison between the Lead Professional and education professionals is likely to be of central importance in the construction of a robust package of support to accompany an MRC.
- 5.2 Ideally any young person up to the age of 16 will be able to access a full-time education placement in a mainstream education provision. Unfortunately for those young people who may be considered for MRCs, it is not uncommon for mainstream education placements to have been disrupted by absences, reduced timetables, exclusions or their transition to an alternative education resource. Where a significant gap exists in terms of education provision for a young person, it would be questionable whether the imposition of an MRC would constitute an appropriate disposal. While EM may be appropriate in conjunction with a full and varied programme of activities in a young person’s life, it risks becoming an unduly restrictive disposal without the prioritisation by the implementation authority of the task of filling the gap in education service provision.
- 5.3 It is important for the Lead Professional to ensure that discrimination against any young person subject to an MRC is challenged. Education, training and employment providers should be encouraged to work collaboratively with a young person subject to an MRC to ensure that this status does not lead to stigmatisation<sup>8</sup>.
- 5.4 Aside from education, training and employment which it is anticipated would structure the majority of a young person’s time when subject to an MRC, numerous additional possibilities exist to support a young person to grow, develop and flourish. The Lead Professional may aim to undertake specific work with the child or young person on a 1:1 basis, through groupwork or indeed through intensive family work. The function of this work would be to address some of the features of a young person’s individual, family or

---

<sup>7</sup> Regulation 3(6).

<sup>8</sup> For example, a young person subject to an MRC may be self-conscious about his EM device being seen by others when changing into exercise clothing in a school P.E. class and creative solutions would have to be found to manage such concerns.



community/structural circumstances contributing to the behaviour(s) of concern. Such work might be informed by the content of a [Blueprint Programme](#), the [Youth Justice Programme](#), Safer Lives resources or other forms of structured and/or modular activities.

- 5.5 On occasion a young person may present with significant substance and/or alcohol misuse issues which are linked to his problematic behaviour. Equally a young person may present with significant mental health difficulties and/or additional support needs. Regular contact with specialist services in Addictions or the Child and Adolescent Mental Health Service (CAMHS) would then naturally become components of a young person's package of support. At minimum it would be anticipated that every young person whose behaviour has escalated to the level where restrictive disposals such as an MRC or secure accommodation are under consideration would be entitled to a full mental health assessment addressing both psychological and psychiatric needs.
- 5.6 In general, young people who present with the most challenging behaviour tend to come to the attention of services at an earlier rather than a later stage. On that basis, it would be anticipated that when a young person is being considered for an MRC it is likely that this will have been preceded by an extended period of professional support and involvement. Furthermore, it would be expected that the variety and intensity of services offered to the young person and his family would have grown incrementally over time in an effort to prevent further deterioration. Recourse to an MRC might therefore be understood as the last course of action available to try to prevent a young person being removed from the community.
- 5.7 The implementation authority must give careful consideration to the sustainability of any resources and supports provided to a young person and his family when subject to an MRC. The provision of support, increases or reductions in its intensity and the decision to withdraw support must be linked to an assessment of risks and needs and reflected in the Child's Plan. Cessation of EM must not automatically trigger cessation of other forms of support and restrictions.

## Essentials

- 6.0 Given some of the complexities and challenges likely to be encountered by the Lead Professional and implementation authority in shaping a coherent and realistic Child's Plan when a young person is made subject to an MRC, Appendix A outlines several key elements which ought to be encompassed and highlights how these might be captured in simple and accessible language. Appendix B provides a basic checklist of key questions to consider during the period when an MRC is being considered. The Lead Professional

may also find it beneficial to filter the key elements of a Child's Plan into an informal weekly plan for the young person and his parent(s)/carer(s). A weekly plan might break down the details of the Child's Plan into an easily digested and easily scrutinised format which can in turn inform the process of monitoring progress.

- 6.1 The Child's Plan must contain specific details about the address to which the young person will be restricted and the Lead Professional should think creatively about options from the outset<sup>9</sup>. It may be the case that a young person spends time in the community between two addresses (e.g. at his biological mother's home on week days and at his paternal grandparents' home during weekends). Constructing a Child's Plan that enables this care arrangement to continue while a young person is subject to an MRC is entirely feasible.
- 6.2 When a young person is made subject to an MRC, the Child's Plan must articulate what contingency plans have been identified in the event that he cannot remain (whether temporarily or permanently) at the address to which he has been restricted. Specifically, the Lead Professional must make clear what alternative accommodation will be sourced, the manner in which it will be sourced and the individuals who will be informed about such a development should it occur<sup>10</sup>. A Review Children's Hearing would be required if a permanent change to a young person's living arrangements was being proposed. However situations may well arise where temporary respite is all that is required to restore balance after a short-lived period of crisis. Different implementation authorities will have different arrangements in place for the provision of respite or emergency accommodation to vulnerable young people.
- 6.3 Aside from accommodation, a young person subject to an MRC and his parent(s)/carer(s) must also have access to other forms of support in the event of a crisis. This support should be available 24 hours per day, 365 days per year. It will fall to individual implementation authorities to make appropriate provision in this area and there is room for flexibility. The requirement for a "telephone contact facility"<sup>11</sup> may be satisfied by the Out of Hours Duty Service that all implementation authorities operate but they may equally seek to work in partnership with other providers to fulfil this requirement. The task of the Lead Professional will be to ensure that irrespective of the timing of a crisis, whether during or outwith office hours, clear instructions are in place and recorded in the Child's Plan about who is required to do what and when in response.

---

<sup>9</sup> Regulation 6(1)(a).

<sup>10</sup> Regulation 3(6)(a).

<sup>11</sup> Regulation 3(6)(b).

- 6.4 Simply because a young person is already accommodated away from home does not mean that an MRC could not be included in their order if it were assessed to be appropriate. If a young person were in a foster or kinship care placement or in a residential unit, this would require the Lead Professional to explore options with the relevant carer(s) or unit manager to establish whether the introduction of monitoring equipment at their respective addresses would be acceptable. It would be expected that discussion with the parent(s)/carer(s) of the young person would also occur to explore their views in relation to the imposition of such a restriction.
- 6.5 While the maximum length of time that a young person may be subject to a curfew at one address is 12 hours per day<sup>12</sup>, there is no requirement that this maximum level of restriction is used. It may be the case that a young person's problematic behaviour tends to occur later in the evening or at weekends. In such a situation a Monday to Thursday curfew from 11pm – 7am coupled with a Friday to Sunday curfew from 7pm – 7am might constitute a more proportionate response.

## Reviews

- 7.0 If a young person is made subject to an MRC, it is imperative that the Child's Plan which outlines all of the elements of monitoring and support in place is the subject of regular review. When the MRC is imposed Panel Members must clearly stipulate the day when or the timeframe within which it is to be reviewed<sup>13</sup>. One of the most practical ways in which this might be achieved is for the Lead Professional, at the point when an MRC is being imposed by a Children's Hearing, to request that an Early Review is scheduled, ideally within 6 weeks.
- 7.1 The advantage of an Early Review Children's Hearing within 6 weeks of the imposition of an MRC is that it provides a reasonable window to establish whether the disposal is proving broadly effective or not. In those instances where a young person has responded positively to the restrictions and supports in place, consideration might also be given to softening some of the provisions (e.g. reducing the number of hours of restriction) as an acknowledgement of progress. Alternatively, if the disposal has not yet prompted the desired behaviour change and/or compliance has been poor, an Early Review enables Panel Members to address these concerns and to consider alternative courses of action if necessary.
- 7.2 The maximum period of time a young person may be subject to an MRC without review is 6 months<sup>14</sup>. However subject to adherence to the minimum

---

<sup>12</sup> Regulation 6(1)(b).

<sup>13</sup> s.125(2).

<sup>14</sup> Regulation 6(1)(c).

required review frequency, consecutive MRCs may be imposed by a Children's Hearing. Furthermore it is conceivable that a young person may be made subject to an MRC on more than one occasion with a gap between monitoring episodes stemming from a change in circumstances (e.g. MRC – secure accommodation – MRC). Given that any compulsory supervision order with secure authorisation is required to be reviewed by a Children's Hearing every three months, it seems appropriate that reviews of MRCs should take place with similar frequency if the option of an Early Review as outlined above is not pursued.

- 7.3 It may also be useful for the Lead Professional to distinguish between both formal and informal reviews of the MRC. The formal review of an MRC at a Children's Hearing should be accompanied by informal local review processes scheduled with sufficient regularity to be purposeful and manageable for all parties involved, including the young person and his parent(s)/carer(s). It will be the responsibility of the implementation authority to arrange local reviews as appropriate, ensuring the full participation of the young person and his parent(s)/carer(s). While this guidance does not prescribe specific review time intervals, weekly reviews (moving to fortnightly with sufficient evidence of progress) may be beneficial in the early stages of an MRC. Such reviews would usefully be informed by the scrutiny of weekly plans. More substantive reviews focussing in detail on the Child's Plan and necessary amendments and changes might occur on a 4 -6 weekly basis.
- 7.4 Lead Professionals should be cautious to avoid duplication as regards review processes and alert to opportunities for streamlining reviews. A young person subject to an MRC might already be subject to child protection, "looked after" and/or risk management reviews. As long as the Child's Plan is being scrutinised with regularity and rigour, various fora may be able to fulfil this reviewing function satisfactorily.

## Compliance

- 8.0 There is no such thing as a 'breach' of an MRC that results in automatic referral to a Children's Hearing. However as with any compulsory supervision order the implementation authority must notify the Children's Reporter to require a review if a child or young person is not complying with it<sup>15</sup>. It is anticipated that a Review Hearing would be prioritised by the Children's Reporter in such instances given the potential need for more restrictive measures. Nevertheless it is important that Lead Professionals appreciate this distinction between MRCs and statutory orders such as Community Payback Orders (CPOs) issued by Courts in the Criminal Justice System which are subject to certain mandatory breach reporting procedures. With MRCs, it may

---

<sup>15</sup> s.131(2)(B)

be more useful for Lead Professionals to think of a continuum of compliance along which a young person's behaviour might be assessed and plotted.

- 8.1 Conveying expectations to the young person and his parent(s)/carer(s) about compliance with an MRC is a key task for the Lead Professional. The manner in which this is done in individual implementation authorities will vary but it may be useful to consider a joint home visit by the Lead Professional and his Line Manager to the young person and his parent(s)/carer(s). Such an approach might help to emphasise the fact that an MRC constitutes a highly restrictive measure which, if unsuccessful owing to the escalation in a young person's risk-taking behaviour, may lead to more restrictive action such as recourse to secure accommodation. However the European rules make it clear that for young people, non-compliance with "the conditions or obligations of the community sanctions or measures imposed on them...shall not lead automatically to deprivation of liberty"<sup>16</sup>. Additionally implementation authorities might produce young person-friendly leaflets or documentation which outline in simple, accessible language what MRCs encompass.
- 8.2 Information will be provided directly to the Lead Professional by the Monitoring Service Provider in relation to any instances when a young person has failed to comply with the terms of the EM arrangements in place. It is important that each individual instance of non-compliance is analysed by the Lead Professional and that he records what steps, if any, he intends to take in response. Some instances of non-compliance will be more concerning than others as outlined by the examples below based on a young person subject to a curfew at his home address between the hours of 10pm – 7am:
- **Ill Health:** The young person is admitted to hospital in the early hours of the morning with unexpected appendicitis. He is discharged the following day after assessment.
  - **Bereavement:** The funeral of a close family member of a young person who resides several hundred miles from the young person's home is taking place. He travels to the funeral with his family but arrives home after midnight.
  - **Employment:** A young person is employed in a local hotel. He is required to work a "back shift" at short notice and does not wish to upset his employer by refusing the opportunity. He returns home after midnight.
  - **Patterns of behaviour:** Although his behaviour has improved and become more predictable, a young person subject to an MRC consistently arrives home up to an hour after his curfew has commenced.
  - **Anti-social actions:** A young person spends the weekend in the community at the homes of various friends and associates. He ignores the restrictions in

---

<sup>16</sup> R.30.1 of the European Rules.

place and comes into contact with the Police on account of his alleged involvement in offending behaviour.

The manner in which the Lead Professional chooses to deal with each of these instances of non-compliance will vary but the key mediating factor to consider will be whether the young person's actions increased the risk of his being involved in further offending and/or harmful behaviour. Identifying trends and patterns will also be important. If as a result of an MRC a young person's previously chaotic behaviour stabilises without necessarily being fully compliant, the Lead Professional may deem this to be satisfactory progress. Finally, if a young person is involved in further offending behaviour of a serious nature during the period when he is subject to an MRC it will fall to the implementation authority along with other partners to the Child's Plan to take appropriate action.

- 8.3 The Lead Professional ought to liaise with the Police to alert them to the fact that a young person has been made subject to an MRC and to clarify the manner in which compliance and non-compliance varies in comparison with EM when used with adult offenders. It is important to note that being subject to an MRC does not result in the Police having any additional powers of arrest in the event of non-compliance.
- 8.4 The Lead Professional should encourage the young person and his parent(s)/carer(s) to be pro-active in highlighting any potential compliance difficulties and to take advantage of the various means at their disposal to communicate concerns. In particular, the monitoring equipment installed in properties by the Monitoring Service Provider includes a telephone which connects directly to their contact centre enabling information to be shared at any time in relation to either compliance difficulties or technical faults. In addition the value of early liaison directly with the Lead Professional or any Out of Hours Duty Service should be highlighted.
- 8.5 In the event of a young person subject to an MRC failing to return to his address and whose absence is a cause for concern, it is the responsibility of the young person's parent(s)/carer(s) to take appropriate action. The parent(s)/carer(s) should agree a clear process, recorded in the Child's Plan, according to which they will contact and notify a range of individuals (culminating in the Police if necessary) should the young person fail to return home. "Missing Person" status can then be conferred on the young person if necessary. However the Lead Professional as the representative of the implementation authority also holds responsibilities as a Corporate Parent and should liaise with the Police if parent(s)/carer(s) are uncooperative, ineffectual or are not involved. Attention must also be paid to any safety or contingency plans which ought to be triggered in the event of a young person's non-compliance with curfew arrangements.

- 8.6 For the purposes of any Review Children's Hearing in relation to a young person subject to an MRC, it would be useful for the Lead Professional to encompass in his report specific information relating to instances of non-compliance in order that Panel Members might take a view as to whether these instances of non-compliance require action.

#### Implementation

- 9.0 Ideally when the decision of a Children's Hearing is to include an MRC in an order, the process of implementation will be swift and managed in a professional fashion and a number of steps might be taken to ensure that the process runs smoothly.
- 9.1 With respect to the scheduling of Children's Hearings at which the possibility of an MRC is likely to be considered, these should take place in the morning where possible owing to the administrative tasks which stem from the decision of Panel Members to impose an MRC.
- 9.2 When a hearing is considering an MRC, automatic legal aid and therefore a duty solicitor is not available for a young person unless the hearing is also considering whether it might be necessary to include a secure accommodation authorisation in an order. However young people are entitled to be represented by a solicitor at every type of Children's Hearing, and legal aid is very likely to be available for this when an MRC is being considered. Where an MRC is likely to be recommended, the Lead Professional should encourage the young person and his parent(s)/carer(s) to seek legal advice in advance of the Children's Hearing. In addition, if the Lead Professional considers that it might be necessary for the Children's Hearing to include a secure accommodation authorisation in the order (and the young person has not consulted a solicitor), the Children's Reporter should be alerted. The Lead Professional should request that the Children's Reporter contact the Scottish Legal Aid Board (SLAB) to ask them to arrange for a duty solicitor for the young person. Nevertheless it is difficult to conceive of a situation in which an MRC might be considered by a Children's Hearing without discussion also of the potential for recourse to secure accommodation thereby rendering the presence of a solicitor essential.
- 9.3 The Monitoring Service Provider is unable to install relevant monitoring equipment in the identified address(es) until appropriate authorisation has been received. The Lead Professional should liaise closely with the Children's Reporter immediately following the Children's Hearing to ensure that the order with MRC condition paperwork is signed and shared promptly, ideally prior to the Lead Professional leaving the Children's Hearings centre. The Children's Reporter will send the Monitoring Service Provider a copy of the decision,

order and reasons by secure email on the day of the Children's Hearing, or, if that is not practicable, on the first working day following the hearing.

- 9.4 The Lead Professional will ideally have had a preparatory discussion with the Monitoring Service Provider prior to the Children's Hearing in relation to the case of a young person who may be made subject to an MRC, with a provisional plan for implementation agreed. This discussion, subject to data protection restrictions, will have included the Lead Professional sharing any essential information such as any identified risks to professionals required to attend the young person's address (e.g. volatile family members or aggressive dogs.) However the Lead Professional should be aware at all times that the role of the Monitoring Service Provider's staff is appropriately limited to the technical features of EM<sup>17</sup>.
- 9.5 Every effort should be made by the Lead Professional to support the work of other agencies to facilitate the implementation of an MRC on the same day the disposal is made. However, if it is not possible for monitoring equipment to be installed and tested by the Monitoring Service Provider at the relevant address before 7pm, the Lead Professional ought to advocate for a delay in installation and testing until the next working day. In situations where young children may be resident at the address, the level of disruption to family life stemming from evening and late night visits by Monitoring Service Provider staff would be particularly inappropriate.
- 9.6 Every effort should be made by the Lead Professional to be present at the time when monitoring equipment is being installed at the relevant address given that it is likely to be a time of strain for the young person and his parent(s)/carer(s).

#### Flexibility and Step-down

- 10.0 The MRC as a disposal of the Children's Hearing has the potential to be used in a flexible fashion. It is important for the Lead Professional to consider how the imposition of what is a restrictive disposal might still be used in such a manner as to maximise any identified strengths or protective factors in a young person's life and to minimise risks.
- 10.1 A young person made subject to an MRC may already be involved in some form of regular pro-social or structured activity (e.g. attending a youth club on a Saturday evening or training and playing for a local football team.) Any EM restriction imposed on a young person should be tailored to ensure that ongoing participation in these activities is not jeopardised.
- 10.2 The concerns that have led to the imposition of an MRC may have stemmed from a particular pattern of offending behaviour (e.g. a young person's

---

<sup>17</sup> CM/Rec (2014) 4, Part III, 8.



involvement in acts of violence while under the influence of alcohol on a Friday and Saturday night.) In such circumstances, some form of weekend-only curfew may prove appropriate with restrictions during the week unnecessary.

- 10.3 A young person may reside at an address at which they have access to a garden, a common stair or some other public or private space which they use regularly. It is important that the order with MRC condition makes explicit the monitoring and restriction boundaries which will be in operation at any address as informed by the Lead Professional's assessment. Therefore the report recommending the MRC should make explicit whether the boundary of the restriction includes any areas outwith the walls of the property.
- 10.4 The use of a curfew requiring a young person to reside at a specific address is not the sole means by which to tackle a young person's concerning behaviour. It may prove as effective to consider any "address, location or place which the child is required not to enter"<sup>18</sup>. If a young person tends to become embroiled in problematic behaviour at a particular locus in the community (e.g. in the vicinity of the local secondary school or at the home of another individual of concern), it may prove more beneficial to restrict access from that particular locus through monitored exclusion zones. With respect to exclusion zones, it is important that a balance is found between the need to ensure the length of time a young person's movements are restricted is kept to a minimum and the need to ensure any exclusion zone is purposeful<sup>19</sup>. It is important to note that such a measure in the MRC excluding a young person from a location can only be used in conjunction with a MRC that requires the young person to reside and remain at a place.
- 10.5 When a young person has been placed in secure accommodation either through means of an interim compulsory supervision order or a compulsory supervision order with secure accommodation authorisation, a Children's Hearing will be required to review this form of detention on a regular basis. The Lead Professional ought to consider the potential for an MRC to be used as means by which to shorten the length of time a young person is deprived of his liberty in secure accommodation. In such instances the MRC might be understood as a means by which to smooth the young person's transition back into the community.
- 10.6 Bearing in mind that depriving a young person under the age of 18 of his liberty should only ever be a "last resort" and for the shortest time possible,

---

<sup>18</sup> Recommendation 6(2)(a).

<sup>19</sup> For example, it may be the case that a young person presents a serious and credible threat to a parent/carer from whom he is estranged. It may be that an exclusion zone is created to ensure that the young person remains away from the parent's/carer's address. In such instances, this exclusion zone restriction may need to be in place for 24 hours per day as opposed to the maximum 12 hours for which a curfew restriction can operate.

using an MRC as a step-down resource may provide a mechanism to manage a young person's behaviour in the community where they continue to meet "secure and MRC criteria".

#### Interim orders

- 11.0 In certain circumstances the concerns about a young person's behaviour may escalate in seriousness rapidly and unexpectedly or a young person with no prior history of offending behaviour may be brought before a Children's Hearing in emergency circumstances (e.g. direct from Police custody following alleged involvement in the perpetration of a serious offence.) In such circumstances a Children's Hearing may include an MRC in an interim variation of a compulsory supervision order (if the young person is already subject to a compulsory supervision order) or an interim compulsory supervision order (if the young person is not already subject to a compulsory supervision order.)
- 11.1 In the event that a Children's Hearing is considering including a secure accommodation authorisation measure in an interim order, it is incumbent on the Lead Professional to highlight viable alternatives where they exist. This might include making an interim variation of the compulsory supervision order to include an MRC condition. Nevertheless, the Lead Professional should be equally conscious that an MRC is not a panacea and decisions must ultimately be guided by structured professional judgements about the nature, frequency and seriousness of offending behaviour.
- 11.2 It is strictly competent to make an MRC without a Child's Plan. Evidently a detailed Child's Plan co-produced with the young person and his parent(s)/carer(s) submitted for Panel Members to consider is far preferable but in emergency circumstances, a more rudimentary approach may be acceptable in order to avoid a secure accommodation placement.
- 11.3 If the Lead Professional is satisfied following as thorough an initial assessment as is possible that the minimum necessary conditions are in place to make an interim order with an MRC condition viable (e.g. informed consent of young person and parent(s)/carer(s), support package, appropriate address etc.), he should update Panel Members to that effect. Furthermore, the Lead Professional may wish to outline to Panel Members the manner in which the review process following imposition of an MRC in such circumstances could be used to build a more comprehensive picture of risk and need.

#### Risk management and screening groups

- 12.0 It is anticipated that young people for whom an MRC is being considered will already be known to services and subject to local risk management

arrangements for those individuals under the age of 18 who present a risk of serious harm to themselves and/or others.

- 12.1 In the event that a young person being considered for an MRC is not, for whatever reason, already subject to local risk management arrangements, the Lead Professional should ensure that the case is brought to the attention of such bodies as appropriate.
- 12.2 Multi-agency risk management groups provide a useful forum for information sharing in situations where a young person's behaviour is giving particular cause for concern. They enable risk assessments to be scrutinised and for risk formulation and scenario-planning with a particular emphasis on victim-safety planning to occur. Modifications to the Child's Plan based on such discussions may be appropriate.
- 12.3 In those implementation authorities where screening groups exist to assess young people's eligibility for intensive service provision, it may be necessary for the Lead Professional to share information with these bodies when a young person with whom they are working is at risk of becoming subject to more restrictive measures. While such groups do not have the same legal standing as a Children's Hearing which is a tribunal, the Lead Professional should endeavour to work through local channels as appropriate while prioritising the best interests of the young person at all times.

#### Completion

- 13.0 When a young person is no longer subject to an MRC, it is important that the EM device is removed and all relevant monitoring equipment is reclaimed by the Monitoring Service Provider as soon as possible. In the event that the termination of the MRC requirement stems from the young person's positive behaviour and compliance, the Lead Professional ought to record and acknowledge this achievement and to explore the young person's views about what contributed to success.

## **Appendix A: Essential information to be incorporated in reports for the Children's Hearings System**

As an MRC must include certain details, a recommendation for an MRC in an order should include

- The place at which the child is required to reside;
- The days of the week during which the child is to be required to remain at that place, and the period or periods when the child is to be required to remain there – this period or periods must not exceed 12 hours in any one day;
- A statement that radio and electronic monitoring of the child's compliance with the restriction will be as described in the Regulations;
- The named person who is to monitor the child's compliance (non-electronically) with the measures in the order (for example, the name of the Chief Social Work Officer);
- The named person whose service is to be used to monitor by radio or electronic means the child's compliance with the restrictions (currently G4S); and,
- The period for which the movement restriction condition is to have effect (which must not exceed 6 months).
- A recommended time when the CSO is to be reviewed as a Children's Hearing must set a review date when making, continuing or varying a CSO that contains an MRC.

The information below outlines suggested wording to be incorporated in reports for the Children's Hearing System in which an MRC is being recommended. This information might usefully be included in any section of the report dealing with "Conclusions" or "Recommendations".

Example 1 – JOHN SMITH – 15 year old male – Involved in offending behaviour of a serious violent nature – Offending takes place almost exclusively during the weekend - Currently residing at home with his mother – Spends time at his paternal grandmother's home several nights per week including when his relationship with his mother is strained – Required to undertake 1:1 offence-focussed work with the Lead Professional based on content from the Youth Justice Programme.

It is recommended as part of a Compulsory Supervision Order (CSO) that the following restrictions and measures should be included:

- JOHN SMITH will be restricted to his home address at 1 STATION ROAD, ANYTOWN, AY1 4TO and the area of restriction will include the front and back garden of the property.
- The times of the Movement Restriction Condition (MRC) will be every Friday and Saturday, 2 days per week, from 22:00 to 06:00.

- Should JOHN SMITH require respite accommodation during the period of the order he will stay at the home of his paternal grandmother at 15 LIME STREET, ANYTOWN, AY4 7QP where the same curfew restrictions will apply.
- JOHN SMITH will meet weekly for 1 hour with the Lead Professional, HAZEL GIRVAN to undertake offence-focussed work focussed on tackling violence.
- The responsible officer will be the Chief Social Work Officer, ANNE MACKIE for Anytown Council and G4S will monitor compliance.
- JOHN SMITH is required to comply with the above movement restriction conditions for a period of six months.
- The Children's Hearing will conduct a 6-week review of the MRC.

Example 2 – JANET SMITH – 13 year old female – Involved in persistent high-risk behaviour including serious substance and alcohol misuse – Associations with older adult males in the community including several with suspected links to the sex industry – Has previously overdosed on heroin and regularly self-harms – Resident in children's residential unit – Allegations of sexual abuse victimisation by biological father who continues to reside in the community and against whom Janet wishes to exact retribution.

It is recommended as part of a Compulsory Supervision Order (CSO) that the following restrictions and measures should be included:

- JANET SMITH will be restricted to WESTWOOD RESIDENTIAL UNIT, OTHERTOWN, OT17 8ZL.
- The times of the Movement Restriction Condition (MRC) will be Monday to Thursday 19:00 to 07:00 and Friday to Sunday 21:00 to 07:00.
- JANET SMITH will also be restricted from the home of her father at 7 STANLEY STREET, OTHERTOWN, OT11 9OM for the duration of the order.
- JANET SMITH will meet with her substance and alcohol misuse worker LEE PENNY twice weekly, on a Monday between 16:00 – 17:00 and a Thursday between 16:00 – 17:00.
- The responsible officer will be the Chief Social Work Officer, ANNE MACKIE for Anytown Council and G4S will monitor compliance.
- JANET SMITH is required to comply with above movement restriction conditions for a period of 6 months.
- The Children's Hearing will conduct a 6-week review of the MRC.

## **Appendix B: Lead Professional Checklist**

In preparing a report in which an MRC recommendation is outlined, have you:

1. Exhausted all other relevant and appropriate community-based resources which are less restrictive in nature?
2. Secured the young person's and his parent(s)/carer(s)' consent to an MRC?
3. Outlined clearly to the young person and his parent(s)/carer(s) the expectations as regards compliance with an MRC and the potential consequences of non-compliance?
4. Contacted the Monitoring Service Provider to offer basic background information in relation to the specific case (e.g. potential risks to members of staff or the presence of young children in the home) while continuing to comply with data protection requirements?
5. Spoken to the Children's Reporter to highlight the possibility of an MRC recommendation and the potential need for legal representation for the young person if the young person and his parent(s)/carer(s) have not already made the necessary arrangements?
6. Given consideration to contingency arrangements if the recommendation for an MRC is not imposed by the Children's Hearing?
7. Outlined in the Child's Plan the 24/7 contact number that can be used by the young person and/or his parent(s)/carer(s) in the event of a crisis?
8. Outlined in the Child's Plan the contingency arrangements which will be followed in the event of alternative accommodation being required for the young person?
9. Outlined in the Child's Plan the core components of the vital support that will be offered in conjunction with the MRC to address the assessed risks and needs?
10. Considered whether it may be valuable to vary the number of hours of restriction each day according to the assessed risk and needs so as to enable the young person to participate in relevant pro-social/structured activities?
11. Considered whether it may be necessary for a restriction from an address, location or place to be imposed as well as a restriction to an address?
12. Considered in situations where young people are already placed in secure accommodation whether an MRC as a component of an order might be a means by which to hasten safely their return to the community?
13. Communicated with all relevant local agencies and bodies who share responsibility for risk management and planning in relation to the young person's situation (e.g. Secure Referral/Screening Groups, Care and Risk Management Groups, Education, Health and Police Scotland) to ensure they are fully informed?
14. Requested an Early Review within 6-weeks for any MRC that may be imposed?



© Crown copyright 2014

You may re-use this information (excluding logos and images) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

ISBN: 978-1-78412-845-6 (web only)

Published by the Scottish Government, October 2014

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

Produced for the Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
DPPAS38315 (10/14)

w w w . s c o t l a n d . g o v . u k