



Children's MARS Guidance

**Statutory duties under section 85/86 of the
Children Act 1989**

December 2022

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Introduction

Sections 85 and 86 of the Children Act 1989 were introduced to ensure that children who are accommodated by a health agency, local education authority, care home or independent hospital for a consecutive period of at least three months are brought to the attention of Children's Services. Such children are potentially vulnerable by virtue of their being accommodated outside of the family.

Upon notification that a child from their area is living in such arrangements, Children's Services can assess whether the child's welfare is being adequately safeguarded and promoted and whether any additional services or interventions should be offered to the child and/or their family.

As Section 85 and 86 only apply to those children who are accommodated for a consecutive period of at least three months, the provisions do not apply to children placed on a term to term basis in boarding school where they return home during the school holidays.

It is a requirement of the accommodating authority to notify Children's Services for a child who would normally be resident within that Local Authority area if they are providing accommodation for a consecutive period of at least three months or if they have the intention of providing accommodation for such a period.

Legal requirements

Under Section 85 Children's Act 1989

Where a child is provided with accommodation by any Local Health Board, Special Health Authority, Primary Care Trust, National Health Service Trust, NHS Foundation Trust or local education authority (the accommodating authority), for a period of 3 months or with the intention of accommodating the child for that period, then the accommodating authority must notify the responsible authority (this is where the child is normally resident).

Where the local authority have been notified under this section of the Children Act 1989, the local authority should take steps that are reasonably practical to enable them to determine whether the child's welfare is adequately safeguarded and promoted while the child is being accommodated and consider the extent to which they need to exercise their functions with respect to the child.

Section 85 local agreement

Specialist placements for children with severe/complex mental health conditions in mental health units are known as Tier 4 provision. Where there is admittance to Tier 4 from North Lincolnshire there is an agreement between agencies that as a best practice standard CAMHS will notify the local authority Children's Services of each child going into Tier 4 provision regardless of the expected duration.

Where a child or young person is admitted to a mental health facility, practitioners should consider whether a referral to local authority children's social care is necessary.

Should a referral be made in these circumstances, see the referrals section (pages 8 and 9) or Appendix 1 of the [Children's MARS policy and procedure for Assessing, Need and Providing Help](#).

Under Section 86 Children Act 1989

Where a child is provided with accommodation in any care home or independent hospital for a consecutive period of 3 months or with the intention of accommodating the child for such a period the person carrying on the home care shall notify the local authority within the area the home is.

Where a local authority have been notified under this section they shall take steps that are reasonably practical to enable them to determine whether the child's welfare is adequately safeguarded and promoted while the child is being accommodated and consider the extent to which they need to exercise their functions with respect to the child.

If the person carrying on any home care fails, without reasonable excuse to comply with this section he/she will be guilty of an offence.

Any person authorised by a local authority may enter a care or independent hospital within the authority's area for the purpose of establishing whether the requirements of this section have been complied with.

It is an offence to obstruct another in the exercise of this power.

To notify Children's Services of a child placed in accordance with section 85/86 of the Children Act please contact North Lincolnshire Children's Services Single Point of Contact on:

- 01724 296500 (9am to 5pm Monday to Thursday, 9am to 4.30pm Friday)
- 08081 689667 (free phone)
- 01724 296555 (answerphone – out of office hours and at weekends)