|  |
| --- |
| **Appendix 1: Criteria for provisions of the regulations and relevant section of the Act** |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **KEY** |  | | |  |
|  | **Y:** The Inspector has concluded there is compliance with the provision of the regulation. | | | |
|  | **N:** The Inspector has concluded that there is evidence that the provision of the regulation is not being complied with. | | | |
|  | **N/A:** The regulation does not relate directly to any specific residence and for which the residence manager may be held accountable. | | | |
|  | **N/A:** There were no cases, incidents or activity relating to the particular regulation during the period covered by the inspection such that no assessment could be made for compliance to the regulation. | | | |
| **Regulations** | | **Inspection Criteria** | | |
| **PART 1 – RIGHTS OF CHILDREN AND YOUNG PERSONS IN RESIDENCE** | | | | |
| **3. Right to professional and planned standards of care —** | | | | |
| (1) Every child or young person in a residence is entitled to be afforded a high standard of professional care consistent with —  (a) The National Code of Practice; and | | | The following Code of Practice standards in the Services and Programmes section are met:   * Individual care plans * Case management | |
| (b) The principles in sections 5 and 6, and, as appropriate, either section 13 or section 208, of the Act; and | | | CYPs and their families are involved in care planning and delivery. | |
| (c) Any plan approved by a Court for the child or young person under —  (i) Section 128 or section 135 of the Act; or  (ii) Section 335 of the Act; and | | | Objectives/services specified in the Court Plan are carried forward to the care plan. | |
| (d) In the absence of any such plan, any plan for the care of the child or young person —  (i) Made or formulated by a family group conference under the Act, and  (ii) That the Director-General is required to give effect to under section 34 or section 268 of the Act; and | | | Objectives/services specified in the FGC Plan are carried forward to the care plan. | |
| (e) A care plan for the child or young person formulated in accordance with subclause (2) of this regulation. | | | A care plan has been developed for the CYP. | |
| (2) The Manager shall ensure that, for every child or young person in a residence (other than one who is likely to be in the residence for less than 5 days), there is formulated a plan for the care of the child or young person while he or she is in the residence. | | | All residents admitted to the residence for longer than 5 days have a care plan formulated. | |
| (3) Every care plan formulated in respect of a child or young person shall —  (a) Be prepared in consultation with, —  (i) The child or young person; and | | | The care plan is prepared in consultation with CYP. | |
| (ii) Where practicable, the parent or guardian (other than the Director-General) of the child or young person, or the person who would otherwise have the care of the child or young person: | | | Family/whanau have been consulted (or there have been attempts to consult) in the development of the care plan. | |
| (b) Specify the objectives sought to be achieved for the child or young person while in the residence: | | | The care plan includes objectives sought to be achieved for the CYP. | |
| (c) Contain details of the services and assistance and the programmes to be provided for the child or young person while in the residence: | | | The care plan includes details of the services and programmes to be provided for the CYP. | |
| (d) State the responsibilities of the child or young person: | | | The care plan includes the responsibilities of the child or young person. Tasks are identified. | |
| (e) State personal objectives for the child or young person: | | | The care plan includes personalised objectives for the CYP. | |
| (f) State details of the contacts the child or young person ought to have with members of the child's or young person's family, whanau, or family group and how those contacts will be achieved: | | | The care plan includes detail of how the CYF is to maintain contact with their family/whanau. | |
| (g) Contain such other matters relating to education, employment, recreation and welfare of the child or young person as are relevant. | | | The care plan includes matters that are relevant for the CYP. | |
| **4. Right to be informed of certain matters —** | | | | |
| (1) The Manager of every residence shall ensure that the following matters are explained from time to time to every child or young person in the residence:  (a) The provisions of these regulations [and sections 384A to 384K of the Act: | | | The residential care regulations are explained to CYPs. | |
| (b) The rules of the residence, and any punishments or sanctions that may be imposed for a breach of those rules: | | | The rules, and the punishments and sanctions that may be applied are explained to CYPs | |
| (c) The grievance procedure operative in the residence for dealing with complaints by children or young persons in the residence, and the means by which a complaint may be lodged under that procedure: | | | The grievance procedure including how complaints are made, are explained to CYPs | |
| (d) The provisions of the care plan formulated in respect of the child or young person. | | | The care plan is explained to the CYP | |
| 2) The explanation required by subclause (1) of this regulation shall be given to a child or young person, —  (a) Except for the explanation required by subclause (1)(d) of this regulation, on the admission of the child or young person to the residence; and | | | The regulations, rules of the residence and grievance procedure are explained to CYPs on admission. | |

|  |  |
| --- | --- |
| (b) From then on, at intervals of not more than 1 month; and | The explanation of the regulations, rules of the residence and grievance procedure are explained on at least a monthly basis. |
| (c) At any other time, if the child or young person so requests. | Discussions on the rules, regulations and grievance procedures are had with CYPs whenever requested. |
| (3) The explanation required by subclause (1) of this regulation shall be given in such language (including a language other than English), and in such a manner, as is appropriate in the circumstances, having due regard to —  (a) The age of the child or young person; and  (b) His or her —  (i) Ethnic or cultural background; and  (ii) Capacity to understand what is being explained. | Explanations, including written material, are given in an age appropriate manner.  Interpreters are used, when necessary. |
| (4) A copy of the rules of the residence and the grievance procedure operative in the residence shall be given to a child or young person on the admission of the child or young person to the residence. | CYPs are given a copy of the rules and grievance procedure on admission. |
| (5) A copy of these regulations [and a copy of sections 384A to 384K of the Act] shall be kept in every residence, and shall be made available for inspection by any child or young person in the residence, or any other person visiting the residence, who so requests. | A copy of the regulations is available for viewing on request by CYP and/or visitors. |
| (6) The Manager of every residence shall ensure that there is displayed prominently in a public area of the residence —  (a) A notice referring to the existence of these regulations [and sections 384A to 384K of the Act], and to their availability for inspection on request; and | A notice referring to the existence (and availability) of the regulations is displayed prominently in each hostel/wing and/or visiting rooms of the residence. |
| (b) A copy of the rules of the residence; and | A copy of the rules is displayed prominently in each hostel/wing and/or visiting rooms in the residence. |
| (c) A copy of the grievance procedure operative in the residence. | A copy of the grievance procedure is displayed prominently in each hostel/wing and/or visiting rooms of the residence. |
| **5. Right to use personal effects —** | |
| (1) Subject to subclause (2) of this regulation, every child or young person in a residence is entitled to use his or her own personal effects and other articles for his or her own entertainment or recreation. | CYP are entitled to use of their own personal effects, subject to:  Safety;  Comfort, and convenience of others;  The law. |

|  |  |
| --- | --- |
| (2) Any member of staff of the residence may seize any personal effect or other article belonging to, or in the possession of, any child or young person in that residence if that member of staff believes, on reasonable grounds, that the personal effect or article—  (a) Could be harmful to that child or young person or to any other person in that residence; or  (b) Is being used in a manner or to an extent that is not consistent with the comfort and convenience of others; or  (c) May not lawfully be possessed by that child or young person; or  (d) Could unreasonably interfere with—  (i)The management or security of the residence; or  (ii)Any behaviour management programme or treatment programme applied to the child or young person. | Personal effects may be seized if there are appropriate grounds to do so. |
| (3) Any personal effect or article seized pursuant to subclause (2) of this regulation that is of the kind referred to in paragraph (a) or paragraph (c) of that subclause may, after consultation with the child or young person,—  (a) Subject to subclause (4) of this regulation, be destroyed, if the Manager so directs; or  (b) Be handed to a member of the Police; or  (c) Be dealt with under subclause (5) of this regulation; or  (d) Be sent or delivered to the child's or young person's parent or guardian or any other person previously having the care of the child or young person. | Harmful or illegal articles seized from residents are either  Destroyed (if so directed by Manager)  Handed to Police  Sent to parents/guardians of CYP  Retained and returned to the CYP on discharge. |
| (4) No direction given pursuant to subclause (3)(a) of this regulation to destroy any personal effect or article shall be carried out,—  (a) Unless the child or young person from whom it is seized is informed —  (i)Of that direction; and  (ii)Of the child's or young person's right to make a complaint about that direction under the grievance procedure; and | Personal effects are not destroyed unless the CYP is notified, and informed of their right to put in a grievance about this. |
| (b) Until the child or young person has had a reasonable opportunity to make such a complaint; and | Personal effects are not destroyed until sufficient time is given to lodge the grievance. |
| (c) If the child or young person makes such a complaint, until that complaint is determined or is sooner withdrawn. | If a grievance is lodged, the personal effect is not destroyed until the outcome of the grievance is determined. |
| (5) Any personal effect or article seized pursuant to subclause (2) of this regulation shall, unless otherwise disposed of under subclause (3) of this regulation, be retained in the residence and returned to the child or young person —  (a) When he or she is discharged from the residence; or  (b) At such earlier time as the member of staff concerned, or the Manager, thinks fit. | Unless disposed of (as above), seized articles are stored at the residence and returned to the CYP on discharge, or earlier if appropriate. |

|  |  |  |
| --- | --- | --- |
| (6) Where any personal effect or article is seized by any member of staff of a residence pursuant to subclause (2) of this regulation, that member of staff shall record the details of the seizure, and the action taken, in the daily log. | | Details of seizure including action taken are recorded in the daily log. |
| **6. Right to wear own clothing and articles of adornment —** | | |
| Y(1) Subject to subclauses (5) to (7) of this regulation, every child or young person in a residence is entitled —  (a) To wear his or her own clothes if those clothes are adequate and suitable; and  (b) To wear his or her own articles of adornment. | | CYP’s are entitled to wear their own clothes and articles of adornment (jewellery etc) if they are suitable. |
| (2) Every child or young person in a residence who does not have adequate and suitable clothes of his or her own shall be provided with adequate and suitable clothes to wear in the residence and on discharge from the residence. | | CYP’s are provided with clothing if they do not have an adequate set. |
| (3) In determining, for the purposes of subclauses (1)(a) and (2) of this regulation, whether clothes are adequate and suitable for any particular child or young person, due regard shall be had to the personal preferences of that child or young person as to the style of clothes he or she wishes to wear. | | The personal preferences of the CYP are considered when determining if clothes are suitable. |
| (4) The clothes of any child or young person admitted to a residence may be removed, inspected, and, if necessary, cleaned before being returned to that child or young person. | | Clothing is inspected and cleaned (if this is required), during the admission process. |
| (5) A child or young person in a residence may be required, during school hours, and at school functions outside school hours at which the wearing of school uniforms is required by the school,—  (a) To wear the school uniform of any school that he or she attends while at the residence; and  (b) To abide by the rules of that school in relation to the wearing of articles of adornment. | | CYPs wear school uniforms if required, and to abide by the school’s rules regarding articles of adornment. |
| (6) Subclauses (2) to (6) of regulation 5 of these regulations shall apply to any article of adornment belonging to or in the possession of a child or young person in the same manner and to the same extent as those subclauses apply to any other personal effects. | Articles of adornment seized from CYP are:  Destroyed  Handed to Police  Sent to parents/guardians  Retained and returned to CYP on discharge.  And the CYP is informed and has reasonable opportunity to object. | |
| (7) No child or young person who is in secure care in a residence shall be required to wear any particular uniform, item of clothing, or other thing, which identifies that child or young person as being in secure care. | CYPs in secure care are not required to wear a uniform, or clothes, or any item which identifies them as being in secure care. | |

|  |  |  |
| --- | --- | --- |
| **7. Right to personal privacy —** | | |
| (1) Subject to [section 384E of the Act], no child or young person in a residence shall be required to be naked in the presence of any member of staff of the residence or any other person for any purposes other than —  (a) To undergo an examination by a registered medical practitioner or a registered nurse; or | CYPs are not required to be naked, or use the toilet, in the presence of a staff member or any other person except for a valid strip search or medical/health reason. | |
| (b) To enable that member of staff or other person to assist the child or young person to wash, perform bodily functions, and generally attend to the daily needs of that child or young person, where that child or young person is unable to attend to those matters unaided. | CYPs are not required to be naked, or use the toilet, in the presence of a staff member or any other person except for a valid strip search or when assistance is required to complete daily cares. | |
| (2) Except where it is necessary to secure the safety of any child or young person, no child or young person in a residence shall be required to use a toilet in the presence of any other person. | CYPs are not required to use a toilet in the presence of a staff member or any other person unless there are safety concerns for the CYP. | |
| (3) Where a child or young person in a residence is required to be naked, or to use a toilet, in the presence of a member of staff,—  (a) Where practicable, that member of staff shall be of the same sex as the child or young person; and | When CYPs are required to be naked or to use a toilet in the presence of a staff because there are safety concerns for the CYP, the staff member is the same sex where practicable. | |
| (b) Subject to subclause (4) of this regulation, details of that requirement shall be recorded in the daily log. | | Details of occasions where a CYP is required to be naked or use a toilet with a staff member present are to be recorded in the daily log. |
| (4) Nothing in subclause (3)(b) of this regulation applies where the requirement is of a kind that is —  (a) Permitted by sub clause (1)(b) or sub clause (2) of this regulation; and  (b) Contemplated by, and set out in, the child’s or young person’s care plan. | | If a CYP is required to use a toilet or be naked in the presence of a staff member for:   * a medical /health examination, * to assist them with their health cares, * security reasons,   or is part of their ICP, then this does not need to be recorded in the daily log. |
| **8. Meals —** | | |
| (1) No child or young person in a residence shall be required to eat meals separately from other children and young persons in that residence, unless the child or young person —  (a) Needs to eat separately on account of illness or injury; or | | CYPs do not eat meals separately from others CYPs unless ill or injured, or |
| (b) Is in secure care and is confined to any room pursuant to regulation 48 of these regulations. | | If they are confined to their room in secure care. |
| (2) Any requirement that a child or young person in a residence eats separately from other children or young persons in the residence shall be recorded in the daily log. | | The requirement for a CYP to eat separately is recorded in the daily log. |

|  |  |
| --- | --- |
| **9. Right to be given instructions verbally —** | |
| (1) Any direction, order, or other instruction given to any child or young person in a residence by any member of staff of the residence shall, where practicable, be given in words, and, except where it is necessary or appropriate that it be given in writing, shall be given orally.  (2) Nothing in subclause (1) of this regulation prevents the use of any picture or graphic display for the purposes of explanation or instruction, including any explanation required to be given to any child or young person pursuant to regulation 4 or regulation 17(3) or regulation 18(4) or [section 384F of the Act]. | CYP report that directions from staff are explained verbally.  Visual prompts are used by staff when required. |
| **10. Rights to visits and communications with family and other persons —** | |
| (1) Subject to subclauses (2) to (4) of this regulation, every child or young person in a residence shall be permitted at all reasonable times to receive visits from, and to communicate freely and (at the discretion of the Manager) in private with, the following persons:  (a) Any parent or guardian of that child or young person, or any person who would otherwise have the care of that child or young person:  (b) The members of the whanau or other culturally recognised family group of that child or young person:  (c) Any person with whom that child or young person has formed a significant psychological attachment:  (d) Any person in whose favour an order has been made under section 121 or section 313 of the Act granting access to that child or young person:  (e) The minister of religion, medical practitioner, psychologist, barrister or solicitor, or Social Worker, or any teacher, of that child or young person:  (f) Any barrister or solicitor appointed under section 159 of the Act to represent the child or young person:  (g) Any lay advocate appointed under section 163 or section 326 of the Act for the child or young person:  (h) Any youth advocate | Visits, telephone calls (received and made) and written correspondence is with any/all of those persons listed in the regulation and is:   * at all reasonable times, and * in private.   Unless prohibited by the Manager, visits, telephone calls (received and made) and written correspondence may occur with any other person. |
| (i) Any barrister or solicitor appointed under section 160 of the Act to assist the Court in any proceedings relating to the child or young person:  (j) Any Care and Protection Co-ordinator or Youth Justice Co-ordinator:  (k) Any Ombudsman, or any member of staff of the Office of the Ombudsman:  (l) A Human Rights Commissioner, . . . the Privacy Commissioner, the Commissioner for Children, the Health and Disability Commissioner, or any member of staff of their respective offices:  (m) Any person involved in the operation of the grievance procedures established within the residence, including —  (i)An advocate nominated or appointed under regulation 16 of these regulations; and  (ii)Any member of the grievance panel; and  (iii)Any person conducting an investigation into a complaint made by the child or young person under the grievance procedure:  (n) Any other person, unless visits from that person, or communication with that person, or both, are for the time being prohibited by the Manager. |  |
| (2) In exercising the discretion referred to in subclause (1) of this regulation, the Manager shall allow the child or young person to communicate with any such person in private, unless the Manager is satisfied that there is a good reason for not allowing such private communication. | Communication is in private, unless the Manager believes there is ‘good reason’ for not allowing this. |
| (3) A child or young person shall not be permitted to receive visits from, or to communicate with, a person if contact with the child or young person would contravene the terms of any order made by any Court of competent jurisdiction that prevents or restricts that person from having access to, or contact with, the child or young person. | Where there is a court order in place preventing or restricting contact between a person and a CYP, communication does not occur or is restricted depending on the terms of the order in place. |
| (4) For the purposes of this regulation, “to communicate” includes to communicate by telephone, but nothing in this regulation requires the Department to meet—  (a) The costs of any telephone call made to a child or young person in a residence; or  (b) Any costs other than the costs of any telephone call made by a child or young person in a residence, where the telephone call —  (i)Is made with the approval of the Manager; and  (ii)Is of a reasonable duration, as determined by the Manager. | Child, Youth and Family is not required to meet communication costs. |
| (5) The details of any refusal to permit a child or young person to communicate in private with any person, or to permit a child or young person to receive a visit from, or to communicate with, or to meet the costs of any telephone call to, any person, pursuant to this regulation, and the reasons for that refusal, shall —  (a) Be given orally and, where practicable, in writing,—  (i)In the case of a refusal given to a child or young person in a residence, to that child or young person; and  (ii)In the case of a refusal given to any other person, to that person; and | Reasons for any refusal to permit communication, private communication or to pay the costs of any communication are explained to the person(s) to whom the refusal is given. Explanations are both verbal and where practicable, in writing. |
| (b) Be recorded in the daily log. | Refusals as above are recorded in the daily log. |
| **11. Rights to send and receive mail —** | |
| 1. Subject to subclause (3) of this regulation and to [section 384 the Act], every child or young person in a residence shall be permitted to send and to receive unopened mail. | CYPs are permitted to send and receive unopened mail |
| 2) Every child or young person in a residence shall be provided with such materials (including the means to pay for postage), and such assistance, as may reasonably be necessary to enable the child or young person to exercise the right conferred by subclause (1) of this regulation. | Letter writing materials and postage are provided. |
| (3) Nothing in subclause (2) of this regulation requires the Department to make available to any child or young person in a residence any computer or facsimile device for the purpose of sending or receiving any mail. | Computers and fax machines are not necessarily provided to CYP’s. |
| (4) The Manager may intercept any mail intended to be sent by a child or young person in a residence and return it unopened to the child or young person, and shall also advise the child or young person of the reason for returning it, if that mail is addressed to a person —  (a) With whom a Court has ordered the child or young person not to associate; or  (b) Who is subject to an order or an interim order made under section 87 or section 88 of the Act restraining that person's conduct in respect of that child or young person; or  (c) Whom the Manager believes on reasonable grounds to be a person with whom it is undesirable for the child or young person to associate; or  (d) Who was a victim of —  (i)An offence proved to have been committed by the child or young person; or  (ii)Admitted or proven behaviour of the child or young person that would constitute an offence. | At the discretion of the Manager, CYPs outward mail may be intercepted, and returned unopened to the CYP if the addressee is one of those listed in the regulation.  CYPs are advised of the interception. |
| (5) Subclause (4) of this regulation does not apply to any mail addressed to a person referred to in any of paragraphs (e) to (m) of regulation 10(1) of these regulations. | Mail is not intercepted if it is addressed to one of the persons listed in regulation 10(e)-(m). |
| (6) The Manager shall ensure that a record is made in the daily log of the details of the interception of any mail under subclause (4) of this regulation | Details of any interception and return of outward mail are recorded in the daily log. |
| **12. Right of access to services —** | |
| Every child or young person in a residence shall have access to adequate legal, recreational, spiritual, and social services and facilities, having regard to the culture and background of that child or young person. | CYPs are readily able to contact their advocate/counsel, social worker, and spiritual and/or cultural services. |
| **13. Right to educational and vocational training —** | |
| (1) Every child or young person in a residence shall, where practicable, have access for not less than 5 hours per day (except on a Saturday, a Sunday, or on any day on which State schools in the district are normally closed),—(a) In the case of children and young persons of school age, to educational activities both inside and outside the residence, or | CYPs in open units receive 5 hours education per (school) day, or |
| (b) To vocational training opportunities outside the residence; or | Vocational training opportunities. |
| (c) In the event that no such activities or opportunities are available, to regular, structured, learning activities facilitated by members of the staff of the residence. | During school holidays or other times when school is not operating, staff provide CYPs with learning opportunities. |
| (2) Every child or young person in a residence has the right to participate in regular social, recreational, sporting, and cultural activities for not less than 2 hours each day. | CYPs in open units have no less than 2 hours social/recreational/sporting/cultural activities per day. |

|  |  |
| --- | --- |
| (3) Nothing in subclause (1)(a) of this regulation applies to any child or young person who is —(a) Enrolled at and attending any school outside the residence; or  (b) Attending any educational institution (other than a school), or any other educational or vocational training activity, outside the residence for an equivalent period (whether or not for the same number of hours each day) | CYPs attending facilities outside the residence are not required to also have 5 hours of educational or vocational activities inside the residence. |
| (4) Nothing in this regulation applies to a child or young person who is detained in secure care. | CYP’s in secure care have a range of activities provided that may include educational activities. |
| **14. Right to medical examinations and treatment —** | |
| (1) Every child or young person in a residence is entitled to prompt, adequate, and appropriate health services and health care. | CYPs are provided with timely access to appropriate health services. |
| (2) Every child or young person in a residence is entitled to be medically examined by a registered medical practitioner within 1 week after the child or young person is admitted to the residence. | A medical examination by a doctor is offered to CYP’s within the first week of admission. |
| (3) No child or young person in a residence shall be required to undergo any medical or dental examination or treatment without that child’s or young person’s consent, except —  (a) Where, pursuant to any enactment or rule of law,—  (i)A parent or guardian of that child or young person; or  (ii)Any person who has been acting in the place of a parent of the child or young person; or  (iii)A Court or any Judge; or  (iv)The Director-General —  is authorised to and has consented to such examination or treatment on behalf of that child or young person; or  (b) Pursuant to any enactment or rule of law whereby in any circumstances the consent of that child or young person to such examination or treatment is not required. | CYPs are not required to undergo medical treatment or examinations unless they, their parent/guardian, or guardian consents, whichever is appropriate. |
| (4) No injection shall be administered to a child or young person in a residence unless it is administered by —  (a) A registered medical practitioner; or  (b) A registered nurse (not being a registered nurse who is employed in the residence principally or exclusively in any capacity other than as a registered nurse) on, and in accordance with, the prescription of a registered medical practitioner; or  (c) A registered dentist in connection with any dental treatment. | Injections are only administered by trained health professionals. |

|  |  |
| --- | --- |
| (5) No prescription medicine or restricted medicine shall be administered to a child or young person in a residence unless it is —  (a) Prescribed for the child or young person by a registered medical practitioner or a registered dentist; and | There is a robust system for administering medicines that provides assurance that medicines are administered in accordance with the directions of a medical practitioner or registered dentist. |
| (b) Administered in accordance with the directions of that medical practitioner or dentist.  (6) In this regulation, the terms “administer’’, “prescription medicine’’, “restricted medicine’’, and “medicine’’ have the meanings given to them by section 2 of the Medicines Act 1981. | Administration records provide evidence that medication is being administered in accordance with the dispensing instructions. |
| **15. Right of access to grievance procedure —** | |
| (1) Every child or young person in a residence has a right,—(a) To lodge a complaint under the grievance procedure operative in the residence; and  (b) Except where the complaint is referred directly to the grievance panel, to have decisions made under the grievance procedure reviewed by a grievance panel. | A grievance procedure is in place as per the Schedule that allows for CYP’s to lodge complaints. |
| (2) The Manager of every residence shall ensure —  (a) That there is operative within the residence a grievance procedure for dealing with complaints by children and young persons in the residence; and | The Manager operates a complaints process as prescribed by the Schedule to the regulations. |
| (b) That the procedure complies with the provisions set out in the Schedule to these regulations; and | The grievance procedure complies with the provisions set out in the Schedule |
| (c) That every child or young person for the time being in the residence has access to the procedure. | The grievance procedure is readily accessible to CYPs. There is no “gate keeping” or filtering. |
| (3) If a complaint from a child or young person concerns the proposed imposition of a punishment or sanction on the child or young person, the complaint shall be treated as an objection to that punishment or sanction made under regulation 19 of these regulations, and subject to subclause (2)(c) of that regulation, that regulation rather than the grievance procedure shall apply to that objection. | Complaints regarding objections to punishments and sanctions are managed under regulation 19(2)(c), not managed in accordance with the grievance procedure. |
| **16. Right to advocacy for grievance —** | |
| (1) The Manager of every residence shall establish procedures to ensure that any child or young person in the residence who makes a complaint under the grievance procedure operative in the residence has reasonable access to a person who may advocate for or represent the child or young person in relation to that complaint and who is —  (a) A barrister or solicitor or youth advocate appointed under section 159 or section 323 of the Act to represent the child or young person; or  (b) A person nominated by the child or young person. | The grievance procedure ensures that CYPs have access to an advocate in furthering their complaint. |
| (2) An advocate nominated by a child or young person under subclause (1)(b) of this regulation may be —  (a) A member of the child’s or young person’s family, whanau, or family group:  (b) A kai awhina or kai arahi:  (c) A barrister or solicitor or youth advocate:  (d) Any other person approved by the Manager. | CYPs nominate whoever they wish to be their advocate so long as this person, if not a family/whanau/iwi member, kai awhina, kai arahi, barrister, solicitor or youth advocate, is approved by the Manager.  An advocate may, with the approval of the Manager, be another CYP within the residence, or staff member. |
| (3) The Manager shall not refuse under subclause (2)(d) of this regulation to approve any person nominated by a child or young person as an advocate unless the Manager believes, on reasonable grounds, that the person —  (a) Would, as advocate for the child or young person, have a conflict of interest with the child or young person in relation to the subject-matter of the complaint; or  (b) Has put himself or herself forward as an advocate predominantly for an interest or interests other than the interests of the child or young person; or  (c) Would attempt, or be likely to attempt, to pervert the course of justice; or  (d) Is, by the terms of any order made by any Court of competent jurisdiction, prevented or restricted from having access to, or contact with, the child or young person. | Reasonable grounds exist for the Manager to refuse a person nominated by the CYP to be their advocate. |
| (4) Where the Manager refuses to approve a person nominated by the child or young person as an advocate, the child or young person shall be given the opportunity to nominate some other person as advocate. | The CYP nominates another person if their initial choice of advocate is refused. |
| (5) Any person acting as an advocate for a child or young person under this regulation shall be afforded reasonable assistance and access to records concerning the child or young person that are relevant to the complaint. | Advocates are able to access records relevant to the complaint that has been lodged. |
| (6) Nothing in this regulation or in regulation 12 of these regulations requires the Department to pay or contribute to the costs or expenses of —  (a) Any barrister or solicitor or youth advocate nominated by the child or young person under subclause (1)(b) of this regulation, if another barrister or solicitor or youth advocate has been appointed to represent the child or young person under section 159 or section 323 of the Act; or  (b) Any other person providing advocacy services to the child or young person on the complaint; or  (c) The child or young person, or his or her parent or guardian, or any other person, engaging any person to provide advocacy services to the child or young person on the complaint. | Child, Youth and Family is not required to pay any costs associated with advocacy services. |

|  |  |
| --- | --- |
| **PART 2 – LIMITATIONS ON POWERS OF PUNISHMENT AND DISCIPLINE** | |
| **17. Behaviour management programmes —** | |
| (1) The Manager of every residence shall notify the Director-General of —  (a) The commencement date and details of any behaviour management programme proposed for general use in that residence; and | The Manager notifies the CE when a behaviour management programme commences. |
| (b) Any decision to discontinue a behaviour management programme in general use at that residence. | The Manager notifies the CE when a behaviour management programme is discontinued. |
| (2) Every behaviour management programme shall comply with the National Code of Practice. | The following Code of Practice standards are met:  - The behaviour management programme encourages and reinforces socially acceptable behaviour and participation.  - Information on the behaviour management programme is available in a range of formats.  - CYP and staff understand the behaviour management programme’s rules.  - CYP’s and staff report that the rewards and sanctions are appropriate, desirable and fair. |
| (3) Where it is proposed to apply any general or specific behaviour management programme to any child or young person in a residence, the Manager shall ensure there is given to that child or young person an explanation of —  (a) That programme, including the behaviour expected of that child or young person under that programme; and  (b) Any rewards and sanctions that may be used under that programme. | The behaviour management programme has been explained to CYPs to whom it is applied:  Expected behaviour  Rewards  Sanctions |
| (4) The explanation required by subclause (3) of this regulation shall be given in such language (including a language other than English), and in such a manner, as is appropriate in the circumstances, having due regard to the age of the child or young person, his or her ethnic or cultural background, and his or her capacity to understand what is being explained. | There are a variety of formats used to provide the explanation of the behaviour management programme to CYPs to ensure that all ages, cultures and levels of understanding are catered for. |
| (5) Except as expressly provided by these regulations, nothing in this regulation permits anything expressly forbidden by these regulations. |  |

|  |  |
| --- | --- |
| **18. Punishments and sanctions —** | |
| (1) The Director-General may from time to time, in respect of any residence, issue to the Manager a written notice prescribing —  (a) The punishments that members of staff of the residence may impose on children and young persons in the residence; and  (b) The sanctions that may be used under behaviour management programmes at the residence. | The CE of Child, Youth and Family may prescribe the punishments and sanctions that may be used in the residence.  Not a residence responsibility. |
| (2) No member of staff of a residence shall punish or sanction any child or young person in the residence unless that punishment or sanction is —  (a) Reasonable in all the circumstances; and | Punishments and sanctions are “reasonable”. |
| (b) One of the punishments or sanctions prescribed by the Director-General under subclause (1) of this regulation. | Staff do not apply a punishment or a sanction unless that punishment or sanction has been prescribed by the CE. |
| (3) Nothing in subclause (1) or subclause (2) of this regulation authorises the imposition of any punishment or sanction that is prohibited by any of regulations 20 to 24 of these regulations | Punishments and sanctions do not involve:  -Corporal punishment  -Torture cruelty, and inhuman, humiliating, or degrading discipline and treatment  -Force  -Silence |
| (4) Before a member of staff of a residence imposes any punishment or sanction on a child or young person in the residence, that person shall explain to the child or young person, in a manner and in language that can be understood by the child or young person,—  (a) The reasons for the punishment or sanction; and | Explanation is given before punishment or sanction is imposed of the:  Reason for the punishment or sanction. |
| (b) The nature of the punishment or sanction; and | Explanation is given before the punishment or sanction is imposed of the:  - Nature of the punishment or sanction. |
| (c) Where appropriate, the duration of the punishment or sanction; and | Explanation is given before punishment or sanction is imposed of the:  - Duration of the punishment or sanction. |
| (d) The right of the child or young person to object to the imposition of the punishment or sanction, or to its nature or duration, or both. | Explanation is given before the punishment or sanction is imposed of the:  - Right to object to the punishment or sanction. |
| (5) Any punishment or sanction imposed on a child or young person in a residence shall be administered in accordance with any standards set out in the National Code of Practice. | The Code of Practice standard on punishment is met:  “Punishment must be applied in an impartial and fair manner”. |
| (6) Where any member of staff of a residence administers any punishment or sanction to a child or young person in the residence, that member of staff shall record in the daily log—  (a) The full name of the child or young person; and | The member of staff who administers a punishment or sanction records in the daily log the  CYP’s name |
| (b) The name of the person who imposed the punishment or sanction; and | The staff members name |

|  |  |
| --- | --- |
| (c)The details of the punishment or sanction, including its nature and duration, and the reasons for its imposition. | Nature, duration and reason for the punishment or sanction |
| **19. Review of punishment or sanction —** | |
| (1) Where any member of staff of a residence proposes to impose any punishment or sanction on a child or young person in the residence, and that child or young person objects to the imposition of that punishment or sanction or to its nature or duration, that member of staff shall —  (a) Record in the daily log —  (i)The full name of the child or young person; and | The name of the CYP objecting to the imposition of a punishment or sanction is recorded in the daily log. |
| (ii)The name of the person who proposes to impose the punishment or sanction; and | The name of the staff member who is proposing the imposition of a punishment of sanction is recorded in the daily log. |
| (iii)The details of the proposed punishment or sanction, including its nature and duration, and the reasons for its imposition; and | All details regarding the proposed punishment or sanction are recorded in the daily log. |
| (iv)The substance of the child’s or young person’s objection; and | Details regarding the CYP’s objection are recorded in the daily log. |
| (b) Forthwith refer the objection to,—  (i)The Manager; or  (ii)Where the Manager is proposing to impose the punishment or sanction, the grievance panel; and | The staff member forwards the objection to either the Manager or Grievance Panel as appropriate. |
| (c) Inform the child or young person of his or her right to consult an advocate in relation to the objection. | The staff member informs the CYP of their right to engage an advocate. |
| (2) Where, pursuant to subclause (1) of this regulation, an objection to the imposition of any punishment or sanction, or to the nature or duration of any punishment or sanction, is referred to the Manager or the grievance panel, the Manager or, as the case requires, the grievance panel shall, as soon as reasonably practicable, review the proposed punishment or sanction, and may,—  (a) Confirm, vary, or rescind the decision to impose the punishment or sanction; or  (b) Rescind the decision to impose the punishment or sanction and substitute any other punishment or  sanction that could have been imposed when that decision was made; or | The Manager or Grievance Panel review the proposed punishment or sanction and decide on an outcome within the parameters outlined in the regulation. |
| (c) After consultation with the child or young person and his or her advocate (if any), treat the objection as a complaint to be dealt with under the grievance procedure operative in the residence under regulation 15 of these regulations. | The objection is treated as a complaint and is managed within the grievance procedure. |
| (3) No punishment or sanction shall be administered to a child or young person while a determination of an objection under subclause (1) of this regulation to that punishment or sanction is pending. | Punishments and are not administered until any objection is adjudicated. |

|  |  |
| --- | --- |
| **20. Corporal punishment not to be used —** | |
| (1) No member of staff of a residence shall use physical force to punish any child or young person in the residence. | Corporal punishment is not used. |
| (2) No member of staff of a residence shall punish any child or young person in the residence by any means which requires that child or young person to adopt any particular physical position or to perform any excessive physical activity  (3) In this regulation “punish” includes applying a sanction. | Punishments do not involve excessive or unreasonable physical activity. |
| **21. Torture, cruelty, and inhuman, humiliating, or degrading discipline and treatment prohibited —** | |
| No member of staff of a residence shall discipline or treat or speak to any child or young person in the residence in a manner which —  (a) Inflicts on the child or young person any torture or cruelty, or is inhuman; or | Staff do not discipline, treat or speak to CYPs in a way that inflicts torture or cruelty or is inhumane. |
| (b) Degrades or humiliates that child or young person; or | Staff do not discipline, treat or speak to CYPs in a way that degrades or humiliates CYP’s. |
| (c) Is likely to induce an unreasonable amount of fear or anxiety in that child or young person. | Staff do not discipline, treat or speak to CYPs in a way that induces fear or anxiety in CYPs. |
| **22. Use of force in dealing with child or young person —** | |
| (1) No member of staff of a residence shall use physical force in dealing with a child or young person in the residence unless that member of staff has reasonable grounds for believing that the use of physical force is reasonably necessary —  (a) In self defence, or in the defence of another person, or to protect that child or young person from injury;  or  (b) To prevent that child or young person from damaging any property; or  (c) To prevent that child or young person from leaving the residence if not authorised to do so; or  (d) To secure the containment of that child or young person in secure care; or  [(e) subject to section 384H of the Act, for the purpose of carrying out any search authorised by section 384C or section 384E of the Act.] | Physical force is used by staff only when reasonably necessary:  In self-defence or to prevent harm to CYP, or other person  To prevent CYP from damaging property  To prevent absconding  To secure containment of CYP in secure care  If necessary to carry out a search. |

|  |  |
| --- | --- |
| (2) Any person who uses physical force for any of the purposes referred to in subclause (1) of this regulation shall —  (a) Use no more [than the minimum amount of force that is reasonably necessary in the circumstances; and | Any force used is no more than minimum amount that is reasonably necessary. |
| (b) Record in the daily log the details of the use of such force, and of the circumstances giving rise to its use. | Any use of force and the circumstances of its use are recorded in the daily log. |
| (3) No member of staff of a residence shall in any circumstances threaten to use physical force against any child or young person in the residence unless the actual use of physical force by that member of staff against that child or young person in those circumstances would be permissible pursuant to subclauses (1) and (2) of this regulation. | Staff do not threaten to use force unless the circumstances would permit them to actually use it. |
| **23. Silence not to be used as punishment or sanction —** | |
| No child or young person in a residence shall be required to remain silent for any period of time as a punishment or sanction. | Silence is not used as a punishment or sanction. |
| **24. Confinement to room restricted —** | |
| (1) Subject to subclauses (2) and (3) of this regulation, no child or young person in a residence shall by way of punishment or sanction or otherwise be confined on his or her own in any room in that residence for any continuous period of more than 1 hour between the hours of 7 am and 8 pm each day. | No CYP is confined alone in a room for any reason (other than in secure or for illness/injury) for longer than 1 hour between the hours of 7.00 am and 8.00 pm. |
| (2) Where a child or young person is confined to his or her own room for a purpose other than punishment or sanction, the confinement under subclause (1) of this regulation shall be for no longer than is necessary to fulfil that purpose. | Confinements are no longer than necessary to fulfil that purpose. |
| (3) No child or young person in a residence shall at any time be locked in any room in that residence. | No CYP is locked in any room (other than in Secure Care). |
| (4) Nothing in —  (a) Subclause (1) of this regulation applies to any child or young person who —  (i)Is in secure care; or  (ii)Is required, on account of illness or injury, to remain in any room in a residence:  (b) Subclause (3) of this regulation applies to any child or young person in secure care. | CYPS are confined in secure care or when they are ill or injured. |

|  |  |
| --- | --- |
| **PART 3 – MANAGEMENT AND INPSECTION OF RESIDENCES** | |
| **25. Director-General to provide facilities and training —** | |
| It shall be the duty of the Director-General to provide —  (a)The facilities, equipment and personnel necessary to give effect to these regulations; and | Not a residence Manager’s responsibility. |
| (b) Adequate training and resources to the staff of residences to enable them to carry out their functions and duties under these regulations. | Not a residence Manager’s responsibility.  Responsibility of the CE |
| **26. National Code of Practice —** | |
| (1) The Director-General shall cause to be prepared a National Code of Practice relating to the management of residences. | Not a residence Manager’s responsibility.  Responsibility of the CE. |
| (2) The National Code of Practice shall —  (a) Set out the philosophy of, and the objectives for, the care of children and young persons in residences; and  (b) Set out the practices and procedures through which that philosophy is to be implemented and those objectives achieved; and  (c) Set out appropriate standards to be met in the implementation of those practices and procedures, and the procedures for evaluating whether or not those standards are attained in each residence; and  (d) Set out matters to be included in the security management and emergency management plans of residences; and  (e) Be prepared having regard to, and shall contain provisions reflecting, the principles in sections 5, 6, 13, and 208 of the Act. | Not a residence Manager’s responsibility.  Responsibility of the CE. |
| (3)The Director-General shall ensure that the National Code of Practice is reviewed from time to time at intervals of not more than 2 years. | The Code of Practice has been reviewed within the previous two years.  (not Residence level compliance) |
| **27. Professional standards of care to be provided in residences —** | |
| (1) High standards of professional care consistent with the matters referred to in regulation 3(1) of these regulations shall be provided at all times for children and young persons in residences. | Care being provided for CYP’s is consistent with Code of Practice standards. |
| (2) The relationship between members of the staff of a residence shall be maintained on a professional basis, having due regard for the well-being, culture, and needs of those children and young persons, and to the need to ensure their proper care and control. | There are no substantiated complaints against staff.  Staff comply with the Code of Conduct. |
| **28. Compliance with regulations —** | |
| (1) The Manager of every residence shall—  (a) Monitor the compliance with these regulations in that residence; and | The Manager has established a system to monitor the residence’s compliance with the regulations. |
| (b) Establish appropriate procedures by which that monitoring may be carried out. | Monitoring procedures are appropriate when:  - there are no repeat non-compliances identified, and  - reporting is accurate |
| (2) Every member of staff of a residence shall comply with every obligation expressly or impliedly imposed on him or her by these regulations. | There is compliance with regulations that involve staff performance. |
| **29. Grievance panels —** | |
| (1) There shall be a grievance panel for every residence. | Reg 15(2) requires that the Manager ensures that a grievance procedure is operative to deal with CYP’s complaints. A grievance panel is an inherent component of this procedure. |
| (2) Every grievance panel shall consist of 3 persons appointed by the Minister on the nomination of the Director-General made after consultation with —  (a) The Principal Youth Court Judge; and  (b) The Principal Family Court Judge; and  (c) The Commissioner for Children. | Not a residence Manager’s responsibility |
| (3) In appointing members of a grievance panel for a residence, the Minister shall, so far as practicable, appoint persons who are, by reason of personality, cultural background, training, and experience, suitable to act as members of a grievance panel and able to relate to children and young persons. | As above |
| (4) Every grievance panel shall include at least one member who is a member of the tangata whenua of the area in which the residence for which the panel is appointed is situated. | As above |
| **30. Further provisions relating to membership of grievance panels —** | |
| (1) Every member of a grievance panel —  (a) Shall hold office at the Minister’s pleasure; and | Not a residence Manager’s responsibility |
| (b) May be paid, out of the Department’s Bank Account from money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly. | As above |
| (2) No person who is appointed to be a member of a grievance panel shall by reason only of that appointment be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956. | As above |
| (3) The powers of a grievance panel are not affected by any vacancy in its membership. | As above |
| **31. Functions and duties of grievance panels —** | |
| (1) The grievance panel for a residence shall have the following functions:  (a) To conduct a review of the decision of the Manager on any matter —  (i)That is the subject of a complaint by a child or young person in the residence in accordance with the grievance procedure; and  (ii)That has been referred to the grievance panel in accordance with that procedure: | The grievance panel reviews the decisions of the Manager |

|  |  |
| --- | --- |
| (b) To monitor compliance with the grievance procedure: | The grievance panel monitors compliance with the grievance procedure as outlined in the schedule. |
| (c) Any other functions imposed on it by the grievance procedure: | The grievance panel performs any other functions as required by the grievance procedure as outlined in the schedule. |
| (d) To review, in accordance with regulation 19 of these regulations, any punishment or sanction that the Manager proposes to impose on a child or young person. | The Grievance Panel reviews any proposed punishments and sanctions. |
| (2) In carrying out its functions, every grievance panel shall observe the principles of natural justice. | All parties to the grievance are given the opportunity to have their say. Those involved do not judge their own case. |
| (3) Subject to these regulations, every grievance panel may regulate its own procedure. | The grievance panel regulates its own procedures but still operates in accordance with the regulations and schedule. |
| (4) Every grievance panel shall report in writing to the persons set out in subclause (5) of this regulation on—  (a) The reviews carried out by the panel during the previous quarter pursuant to the grievance procedure; and | Grievance panel reports include the outcomes of reviews carried out by the panel. |
| (b) Whether, in its opinion, there has been compliance with the grievance procedure, and the reasons for that opinion. | The grievance panel reports on compliance with the grievance procedure |
| (5)The persons referred to in subclause (4) of this regulation are —  (a) The Director-General; and  (b) The Principal Youth Court Judge; and  (c) The Principal Family Court Judge; and  (d) The Commissioner for Children. | Grievance panel reports are distributed to the appropriate persons. |
| (6) Nothing in subclause (4) of this regulation prevents a grievance panel from making a report on such other matters relating to its functions as it sees fit. | Others matters are reported other than reviews and compliance with the grievance procedure. |
| (7) Every report under subclause (4) of this regulation shall be made not later than the 15th day of the month following the end of the quarter to which the report relates. | Reports are quarterly and are dated 15th of the month following the previous quarter. Some leeway is allowed for the report due in January due to panel member availability over the Christmas break. |
| (8) Nothing in subclauses (4) and (7) of this regulation prevents a grievance panel from making a report at any other time. | The grievance panel provide reports at other times. |

|  |  |
| --- | --- |
| **32. Security management plan —** | |
| (1) The Manager of every residence shall be responsible for preparing and maintaining a security management plan in relation to the residence. | A security management plan is prepared and maintained. |
| (2) Every security management plan shall be prepared in accordance with the requirements in that regard of the National Code of Practice, and shall include:  (a) Details of the members of staff of the residence who are responsible for security in the residence and the reporting requirements on security matters: | The security management plan includes details of the staff responsible for security and reporting requirements. |
| (b) An identification of the security issues relating to the residence: | The security management plan includes identification of security issues. |
| (c) Written procedures to deal with such security issues: | The security management plan includes  procedures to deal with security issues. |
| (d) Such other matters relating to the maintenance of the security of the residence as the Manager thinks fit. | The security management plan includes  any other matters relating to the security of the residence. |
| 1. The Manager of every residence shall ensure that the security management plan is periodically reviewed at intervals of not more than 6 months. | The security management plan is reviewed at least 6 monthly |
| **33. Emergency management plan —** | |
| (1) The Manager of every residence shall be responsible for preparing and maintaining an emergency management plan in relation to the residence. | An emergency management plan is prepared and maintained. |
| (2) Every emergency management plan shall be prepared in accordance with the requirements in that regard of the National Code of Practice, and shall include -  (a) A prioritised identification of hazards that could affect the residence: | The emergency management plan includes a prioritised identification of hazards. |
| (b) Written procedures to deal with any such hazards, including procedures relating to the evacuation of children and young persons and staff from the residence: | The emergency management plan includes procedures for dealing with hazards, and procedures for the evacuation of CYPs and staff. |
| (c) An emergency command structure: | The emergency management plan includes an emergency command structure. |
| (d) Liaison and aid arrangements with civil defence personnel, Police, ambulance and fire services, and local authorities: | The emergency management plan includes liaison and aid arrangements with civil defence, Police, Fire Services, and local authorities. |
| (e) Such other matters relating to management of the residence in an emergency as the Manager thinks fit. | The emergency management plan includes other matters relating to the management of emergencies. |
| (3) The Manager of every residence shall ensure that —  (a) The emergency management plan is periodically reviewed at intervals of not more than 6 months; and | The emergency management plan is reviewed at least 6 monthly. |
| (b) Evacuation and assembly exercises involving members of staff and children and young persons in the residence are carried out at least once every 3 months. | Evacuation/assembly drills take place at least quarterly. |
| **34. Community liaison committee —** | |
| (1) The Manager of every residence shall establish a community liaison committee. | There is a community liaison committee for the residence |
| (2) In establishing a community liaison committee under subclause (1) of this regulation, the Manager shall endeavour to ensure the committee has the following membership:  (a) Two persons resident in and representative of the community in which the residence is situated:  (b) Two persons appointed by the local authority having jurisdiction over the area in which the residence is situated:  (c) Two persons representing the tangata whenua of the area in which the residence is situated:  (d) A member of the Police:  (e) The Manager of the residence, or a senior member of staff of the residence to attend meetings of the committee in the absence of the Manager:  (f) A representative of the members of staff of the residence:  (g) A representative of the children and young persons in the residence:  (h) Such other person or persons as the committee invites to be members of the committee. | The committee’s membership includes, if possible, persons representing:  The local community (2)  The local authority (2)  The tangata whenua (2):  The Police (1)  Manager of the residence  Staff representative (1)  CYP representative (1)  Other invited members |
| (3) The Manager shall —  (a) Invite nominations for appointment to the committee, when establishing the committee, and from time to time when there is a vacancy in its membership; and | The Manager attempts to fill any vacancies on the committee |
| (b) Appoint members of the committee (other than the members referred to in paragraph (b) or paragraph (c) or paragraph (h) of subclause (2) of this regulation) from such nominations. | The Manager appoints members to the committee. |
| (4) The functions and powers of the committee shall not be affected by any vacancy in its membership. | The community liaison committee continues to function even when there are vacancies. |
| (5) No person shall be entitled to any remuneration from the Crown by way of fees, allowances, travelling allowances or expenses, salary, wages or other remuneration in respect of his or her membership of the committee unless he or she is a person referred to paragraph (d) or paragraph (e) or paragraph (f) of subclause 2 of this regulation. | No compliance requirement for residence |
| **35. Functions of community liaison committee —** | |
| A community liaison committee shall have the following functions:   1. To promote positive relationships between the residence and the surrounding community: | The community liaison committee promotes positive relationships between the residence and the surrounding community. |
| (b) To monitor the effects of the residence on the surrounding community: | The community liaison committee monitors the effect of the residence on the surrounding community. |
| (c) To monitor the effectiveness of the measures adopted to mitigate any adverse effects on the surrounding community: | The community liaison committee monitors measures that mitigate any adverse effects on the surrounding  community. |
| (d) To monitor the effectiveness of the security management plan of the residence and to review absconding from the residence: | The community liaison committee monitors the effectiveness of the security management plan, and reviews abscondings from the residence. |
| (e) To review any changes to internal management practices at the residence in relation to specified actions designed to mitigate adverse effects on the community: | The community liaison committee reviews any changes to internal management practices at the residence designed to mitigate adverse effects on the community. |
| (f) To respond to concerns raised by residents of the surrounding community: | The community liaison committee responds to any concerns raised by residents of the surrounding community. |
| (g) To make recommendations to the Manager on any matters referred to in paragraphs (a) to (f) of this regulation. | The community liaison committee makes recommendations to the Manager as required. |
| **36. Meetings of community liaison committee —** | |
| (1) Every community liaison committee shall meet at least 4 times a year at a venue provided by the Director-General. | The community liaison committee meets at least quarterly. |
| (2) The committee shall from time to time appoint one of its members to be the chairperson of the committee. | The committee has an appointed chairperson. |
| (3) The Director-General shall furnish such secretarial services as are reasonably required for the committee to keep a record of its meetings. | Not a residence Manager’s responsibility |
| **37. Inspection of residences —** | |
| (1) For the purposes of ensuring that the provisions of these regulations [and sections 384B to 384K of the Act] are complied with, every residence shall be inspected at least once each calendar year by an employee of the Department appointed for the purpose by the Director-General. | Applies to the Audit Team.  No compliance requirement for residence |
| (2 )An inspection under subclause (1) of this regulation may be made upon reasonable notice to the Manager of the residence, but nothing in this subclause requires any such notice to be given. | As above |
| (3) The Manager of a residence shall notify the children and young persons in the residence of any inspection about which he or she has received notice. | The residence Manager has notified the CYPs in advance of the regulations inspection. |
| (4) Every person who inspects a residence under subclause (1) of this regulation shall furnish a report in writing on that inspection to the Director-General, forthwith after making that inspection. | As above |
| (5) Every such report shall contain —  (a) A statement as to whether, in the opinion of the person making the report, the provisions of these regulations [and sections 384B to 384K of the Act] are being complied with in the residence; and | As above |
| (b) Details of any circumstances or matter in respect of which, in the opinion of that person, there has been a failure to comply with these regulations [or sections 384B to 384K of the Act]; and | As above |
| (c) Any recommendations in relation to any such circumstances or matter. | As above |
| (6) Every person who furnishes a report to the Director-General under subclause (4) of this regulation in respect of a residence shall forthwith supply a copy of that report to the Manager, and to the Commissioner for Children. | As above |
| **38. Powers of person conducting inspection —** | |
| (1) Every person appointed to inspect any residence under regulation 37 of these regulations may, in the course of the inspection,—  (a) Enter and inspect any part of the residence: | Applies to the Audit Team.  No compliance requirement for residence |
| (b) Observe and comment on the state and condition of any child or young person in the residence: | As above |
| (c) Communicate with —  (i)Any child or young person in the residence; and  (ii)Any member of staff of the residence; and  (iii)Any other person whom the person inspecting the residence considers may be able to provide any relevant information: | As above |
| (d) Subject to subclause (4) of this regulation, examine any document or record that is held in the residence and that relates to any child or young person in the residence. | As above |
| (e) Subject to subclauses (4) and (5) of this regulation, require any member of staff of the residence to furnish such information or particulars as are reasonably necessary for the purpose of the inspection. | As above |
| (2) No entry or inspection of the room or sleeping area assigned to a child or young person in the residence shall be made unless —  (a) The person inspecting the residence believes on reasonable grounds that the inspection cannot properly be carried out without making that entry or inspection; and | As above |
| (b) Prior notice of the inspection is given to the child or young person, in which the purpose of the inspection is explained; and | As above |
| (c) The child or young person is present during the inspection. | As above |
| (3) Nothing in —  (a) Paragraphs (b) and (c) of subclause (2) of this regulation applies where the child or young person is absent from the residence: | As above |
| (b) Subclause (2)(c) of this regulation applies where compliance with its provisions would be impracticable because the child or young person is ill or is in secure care. | As above |
| (4) Nothing in subclause (1)(d) or (e) of this regulation permits any person to inspect any document, or requires the furnishing of any information, that records any communications between a child or young person and any person providing counselling to the child or young person. | As above |
| (5) Where a requirement is made under subclause (1)(e) of this regulation, the member of staff concerned shall have the same privileges in relation to the furnishing of information or particulars and the answering of questions as witnesses have in courts of law. | As above |
| **PART 4 - SEARCHES** | |
| **39. Inspection of mail —** | |
| (1) The Manager of a residence may exercise the powers in subclause (2) when causing an inspection of mail to be undertaken under section 384B of the Act.]  (2) The powers referred to in subclause (1) of this regulation are —  (a) The Manager may require the mail to be opened, or, in the case of a facsimile or electronic mail, read, by the child or young person in the presence of a member of staff of the residence, or by a member of staff of the residence, or by a member of staff of the residence in the presence of the child or young person; and  (b) If the mail contains any such article, drug, substance, or material, the member of staff may seize that article, drug, or substance, or that material. | Any inspection of mail is approved by the Manager, and any items found seized. |
| (3) Any article, drug, substance, or material seized pursuant to this regulation may, after consultation with the child or young person,—  (a) Subject to subclause (5) of this regulation, be destroyed, if the Manager so directs; or  (b) Be handed to a member of the Police; or  (c) Be retained in the residence and returned to the child or young person when he or she is discharged from the residence or at such earlier time as the member of staff concerned, or the Manager, thinks fit. | CYPs are consulted before managing any item seized from their mail.  Destruction of any item is by Manager’s direction.  Disposal/retention of any seized item is in line with the regulation. |

|  |  |
| --- | --- |
| (4) Nothing in subclause (1) of this regulation —  (a) Requires a child or young person to be present if any mail is believed on reasonable grounds to contain any explosive or destructive substance or device; or  (b) Entitles a member of staff of a residence to read any mail intended to be sent or received by the child or young person unless,—  (i)He or she is invited to do so by the child or young person; or  (ii)Because of the child's or young person's attitude or responses to a behaviour management programme or a treatment programme being applied to the child or young person, a member of staff believes on reasonable grounds that the mail is likely to contain material of the kind referred to in [section 384B(c) or (d) of the Act]. | CYP is not required to be present if mail believed to be dangerous.  Staff do not read CYPs’ inwards, or outgoing mail unless:  Invited by CYP  Reasonable grounds to believe that the mail contains material likely to be offensive to the addressee, or to encourage offending |
| (5) No direction given pursuant to subclause (3)(a) of this regulation to destroy any article, drug, substance, or material intended to be sent or received by a child or young person shall be carried out,—  (a) Unless the child or young person is informed —  (i)Of that direction; and  (ii)Of the child's or young person's right to make a complaint about that direction under the grievance procedure; and  (b) Until the child or young person has had a reasonable opportunity to make such a complaint; and  (c) If the child or young person makes such a complaint, until that complaint is determined or is sooner withdrawn. | CYP is informed of intention to destroy any article seized from mail.  CYP is informed of right to make complaint.  Article is not destroyed until any complaint is determined or withdrawn. |
| (6) The Manager shall ensure that a record is made in the daily log of the details of—  (a) The inspection of any mail under subclause (2) of this regulation:  (b) The seizure of any article, drug, substance, or material under subclause (2) (b) of this regulation and of the action taken in respect of it under subclause (3) of this regulation. | Daily log entries made of:  Inspection of any mail  Any items seized  Action taken to dispose of or retain seized items. |
| **S384B. Inspection of mail —** | |
| The Manager may cause to be inspected, in accordance with the regulations, any mail intended to be sent or received by a child or young person in the residence if the Manager believes, on reasonable grounds, that the mail contains —  (a) any unauthorised item; or  (b) any harmful item or any article, drug, or substance that may not lawfully be possessed by the person for whom the mail was intended; or  (c) any material that would or might facilitate or encourage the commission of an offence by the person for whom the mail was intended; or  (d) any material that would be likely to be offensive or harmful to the person for whom the mail was intended. | Any inspection of mail is approved by the Manager. |

|  |  |
| --- | --- |
| **S384C. Child or young person may be searched to detect unauthorised items —** | |
| (1) A member of staff, who believes on reasonable grounds that a child or young person in the residence has in his or her possession any unauthorised item, may carry out any of the following types of searches for the purpose of detecting that item:  (a) a scanner search of the child or young person:  (b) a pat down search of the child or young person:  (c) a search of any room or sleeping area assigned to the child or young person. | A staff member believes, on reasonable grounds, that a child or young person has in his or her possession an unauthorised item before carrying out:  a scanner search  a pat down search  a search of any room or sleeping area. |
| (2) Nothing in subsection (1)(c) limits or affects any power or authority to search or inspect any room or sleeping area in the residence for security purposes. | Staff may inspect rooms for security purposes. These are not considered room searches. |
| (3) A member of staff may not carry out a search unless —  (a) that member of staff requests that the child or young person hand over the unauthorised item that he or she believes on reasonable grounds to be in the child's or young person's possession; and  (b) the child or young person refuses or fails to hand the item over. | Staff ask a CYP to hand over items sought, and give the CYP opportunity to comply, before proceeding with a search. |
| (4) Nothing in subsection (3) requires that a member of staff make a request if the same request has been made to the child or young person within the previous hour. | Searches may occur more than once in the hour and if this occurs, staff are not required to ask a CYP to hand over items sought, or to give the CYP opportunity to comply, before proceeding with the next search. |
| **S384D. Use of dogs for searching —** | |
| (1) In exercising a power of search conferred by sections 384B and 384C, a member of staff may have with him or her, and use for the purposes of searching, any dog trained for that purpose. | Any dog used for searching is trained for that purpose. |
| (2) A dog must not be used unless it is under the control of another person (being a member of the police, or a customs officer, or a member of the Armed Forces, or an employee of the Department of Corrections), who may accompany the member of staff for the purposes of the search. | Any dog used for searching is under the control of a member of the police, or a customs officer, or a member of the Armed Forces, or an employee of the Department of Corrections. |
| (3) A member of staff who uses a dog for the purposes of searching any child or young person must conduct the search with decency and sensitivity and in a manner that —  (a) affords to the child or young person being searched the greatest degree of dignity consistent with the purpose of the search; and | Staff are aware of the need to consider the dignity of CYPs during these searches. |
| (b) prevents the dog coming into physical contact with the child or young person during the search. | Search dogs do not touch CYPs during a search. |

|  |  |
| --- | --- |
| **S384E. Child or young person may be strip searched —** | |
| (1) A member of staff may, if that member of staff believes on reasonable grounds that a child or young person has in his or her possession a harmful item, conduct a strip search of that child or young person for the purposes of detecting the harmful item —  (a) if that member believes on reasonable grounds that a strip search is necessary in order to detect the item; and | A staff member believes, on reasonable grounds, that a child or young person has in his or her possession a harmful item before carrying out a strip search and that this type of search is necessary in order to detect the harmful item(s) sought. |
| (b) if a scanner search or a pat down search of the child or young person has already been carried out for that purpose. | A pat or scanner search has been performed prior to conducting a strip search |
| (2) A child or young person required to undress or remove any clothing and underclothing under subsection (1) may be required to remain undressed or partly undressed only as long as is reasonably necessary for the purposes of the search. | The CYP is not required to remain undressed or partly undressed longer than is reasonably necessary for the purposes of the search. |
| **S384F. Explanation of purpose and consequences of inspections and searches —** | |
| (1) Before any mail is inspected under section 384B or a search is carried out under section 384C or section 384E, the member of staff who is to conduct the inspection or search must explain to the child or young person —  (a) that the purpose of the inspection or search is,—  (i) in the case of an inspection, to detect any item of the kinds referred to in section 384B; or  (ii) in the case of a search carried out under section 384C, to ensure the safety of the child or young person by detecting any harmful item, or to detect any article, drug, or substance that may not be lawfully possessed by the child or young person in the residence; or  (iii) in the case of a search carried out under section 384E, to ensure the safety of the child or young person and the safety of others by detecting any harmful item; and | Any search is preceded by an explanation of the purpose of the search to the CYP. |
| (b) that any item seized during the inspection or search will, after consultation with the child or young person, be dealt with in the ways provided for by the regulations; and | Any search is preceded by an explanation that any seized item(s) will be disposed of in accordance with the regulations. |
| (c) that any item seized during the inspection or search and subsequently handed to a member of the police in accordance with the regulations may be used as evidence in criminal proceedings against the child or young person. | Any search is preceded by an explanation that seized items may be handed to Police and may be used in a criminal prosecution. |
| (2) The explanation required by subsection (1) need not be given if the member of staff has reasonable grounds for believing that the situation involves a serious and immediate risk to the safety of the child or young person or of any other person. | Explanations not necessarily given if there are serious and immediate risk issues involved. |

|  |  |
| --- | --- |
| **S384G. Restrictions on searches —** | |
| (1) A member of staff must consult with the Manager or a senior member of staff before carrying out a search under section 384C or section 384E unless consultation would, in the circumstances, be impracticable. | Staff consult with the Manager or senior staff member before carrying out a search, unless consultation is impracticable. |
| (2) A pat down search or a strip search of a child or young person must be carried out by a member of staff who is of the same sex as the child or young person being searched. | Pat down searches or strip searches are carried out by staff of same gender as the CYP |
| (3) A pat down search or a strip search must not be carried out in view of —  (a) a person who is not of the same sex as the child or young person, unless the person is a parent or guardian (other than the chief executive) of the child or young person or a person who would otherwise have the care of the child or young person: | Pat down searches or strip searches are performed out of sight of anyone not of the same gender as the CYP. |
| (b) another child or young person in the residence. | Pat down searches or strip searches are performed out of sight of other CYPs. |
| (4) A pat down search or a strip search must not be conducted unless 1 of the following persons is also present:  (a) another member of staff:  (b) a member of the police:  (c) a parent or guardian (other than the chief executive) of the child or young person or a person who would  otherwise have the care of the child or young person. | Pat down searches or strip searches are performed in the presence of:  another member of staff, or  a member of the police, or  a parent or guardian or caregiver |
| (5) A person who conducts a pat down search or a strip search must conduct the search with decency and sensitivity and in a manner that affords the child or young person being searched the greatest degree of privacy and dignity consistent with the purpose of the search. | Pat down searches and strip searches are respectful of CYPs privacy and dignity including the provision of a screen to undress behind, a towel or bath robe for the CYP to use while clothes are inspected, and the CYP is not required to perform star jumps, squats, or lunges. |
| **S384H. Use of force in carrying out search —** | |
| (1) A member of staff may not use physical force in carrying out a search authorised by section 384C or section 384E unless that member of staff has reasonable grounds for believing that the use of force is reasonably necessary to avoid or mitigate a serious and immediate risk to the safety of the child or young person or of any other person. | Force is not used to perform a search except if staff have reasonable grounds for believing that the use of force is reasonably necessary to avoid or mitigate a serious and immediate risk to the safety of the CYP or of any other person. |
| (2) A member of staff who uses force for the purpose referred to in subsection (1) must use no more than the minimum amount of force that is reasonably necessary in the circumstances. | Only the minimum amount of force that is reasonably necessary is used. |

|  |  |
| --- | --- |
| **S384I. Recording of inspections and searches —** | |
| The Manager must ensure that a record is made in the daily log kept in accordance with the regulations of—  (a) the details of any inspection or search carried out under any of sections 384B, 384C, and 384E, including the grounds on which the inspection or search was carried out; and | Search details are recorded in the daily log:  CYP name  Time  Type of search  Grounds for search  Staff members performing the search and assisting |
| (b) in the case of a search carried out under section 384C or section 384E, the details of any physical force used for the purpose of carrying out the search, and of the circumstances giving rise to the use of force. | Details of the use of force are recorded. |
| **384J. Child or young person may make complaint —** | |
| A child or young person who has had his or her mail inspected under section 384B or has been searched under section 384C or section 384E may make a complaint about that inspection or search in accordance with the regulations. | CYP are able to lodge a grievance when they object to being searched. |
| **384K. Power to seize articles, etc, found on inspection or search —** | |
| (1) Any unauthorised item found during any inspection or search may be seized in accordance with the regulations by the member of staff referred to in subsection (2). | Any unauthorised item seized is dealt with in accordance with the regulations by the member of staff conducting the inspection. |
| (2) The member of staff of the residence referred to in subsection (1) is,—  (a) in the case of an inspection carried out under section 384B, the member of staff conducting the inspection; or  (b) in the case of a search carried out under section 384C, the member of staff who is conducting the search; or  (c) in the case of a search carried out under section 384E, the member of staff who is conducting the search. | The member of staff who deals with seized items is the person conducting the search. |
| (3) Any unauthorised item seized must be dealt with in accordance with the regulations. | The options for managing any seized items are outlined in regulation 5(3-6). |
| **45. Power to seize articles, etc, found on search or examination —** | |
| (1) Any article, drug, or substance found during any search or examination conducted under sections 384C or 384E of the Act may be seized under section 384K(1) of the Act by a member of staff of the residence referred to in that section if either or both of the conditions set out in subclause (3)(a) or (b) applies to that article, drug, or substance.]  (2) Revoked. | Item(s) are seized if there are grounds to do so. |
| (3) The conditions referred to in subclause (1) of this regulation are that the member of staff believes, on reasonable grounds, that the article, drug, or substance —  (a) Could be harmful to that child or young person or to any other person in the residence; or  (b) May not lawfully be retained in the possession of that child or young person. | Items found in the course of a search are seized only if staff have reasonable grounds to believe that the items could be harmful to the CYP or to any other person in the residence or are items that may not lawfully be retained in the possession of the CYP. |

|  |  |
| --- | --- |
| (4) Any article, drug, or substance seized pursuant to subclause (1) of this regulation may, after consultation with the child or young person,—  (a) Subject to subclause (5) of this regulation, be destroyed, if the Manager so directs; or  (b) Handed to a member of the Police; or  (c) Retained in the residence and resumed to the child or young person when he or she is discharged from the residence or at such earlier time as the member of staff concerned, or the Manager, thinks fit; or  (d) Returned to its rightful owner, if it belongs to some person other than the child or young person searched or examined. | Staff consult with the CYP before disposing of or retaining seized items.  The destruction of any seized items is directed by the Manager. |
| (5) No direction given pursuant to subclause (4)(a) of this regulation to destroy any article, drug, or substance shall be carried out,—  (a) Unless the child or young person from whom it is seized is informed —  (i) Of that direction; and  (ii) Of the child's or young person's right to make a complaint about that direction under the grievance procedure; and | Items found are not destroyed without informing the CYP that the item(s) will be destroyed and that they have a right to make a complaint about this. |
| (b) Until the child or young person has had a reasonable opportunity to make such a complaint; and | Items found are not destroyed without giving the CYP an opportunity to complain. . |
| (c) If the child or young person makes such a complaint, until that complaint is determined or is sooner withdrawn |  |
| (6) The Manager shall ensure that a record is made in the daily log of the details of the seizure of any article, drug, or substance under subclause (1) of this regulation and of the action taken in respect of it under subclause (4) of this regulation. | Details of items seized and their disposal are recorded in the daily log. |
| **PART 5 – SECURE CARE** | |
| **46. Areas for provision of secure care to be designated —** | |
| The Manager of every residence established for the purpose of section 364(2)(d) of the Act shall designate one part of the residence to be used for the provision of secure care, and every such part shall be indicated by signs or other means so as to be readily identifiable to children and young persons in that residence. | The area designated for secure care is clearly identified. |
| **47. Review of placement in secure care —** | |
| (1) Subject to subclause (4) of this regulation, the member of staff of a residence who is for the time being in charge of the secure care unit in that residence shall review daily the case of every child or young person who is being kept in secure care in that residence in order to determine whether or not the child or young person should continue to be kept in secure care. | The person in charge of secure care reviews daily each CYP placed in secure care. |

|  |  |
| --- | --- |
| (2) At every daily review carried out pursuant to subclause (1) of this regulation, the child or young person to whom the review relates is entitled to be present at and to participate in that review. | The CYP is present and also participates in the daily review of their placement in secure care. |
| (3) Subject to subclause (4) of this regulation, where a child's or young person's continued placement in secure care has been reviewed pursuant to subclause (1) of this regulation, that child or young person shall be discharged from secure care unless the member of staff of the residence who carried out that review certifies in the secure care register that he or she is satisfied —  (a) That —  (i) The ground specified in section 368 of the Act on which that child or young person was placed in secure care continues to apply; or  (ii) The continued placement of that child or young person in secure care is justified on the other ground specified in that section on which that child or young person might be placed in secure care; and  (b) That adequate management of that child or young person cannot reasonably be undertaken except in secure care. | The CYP is discharged from secure care unless staff reviewing the placement are satisfied that:  - Grounds under S368 apply, and  CYP cannot reasonably be managed except in secure care  and records this in the secure care register. |
| (4) No child or young person for whose continued detention in secure care there is in force an approval granted under section 376 of the Act, or renewed under section 377 of the Act, shall be kept in secure care for a continuous period of more than 7 days unless, before the expiry of that period, the Manager, or some other senior member of staff of the residence designated by the Manager for that purpose,—  (a) Has carried out a review of the case of the child or young person pursuant to subclause (1) of this regulation; and  (b) Has certified in the secure care register that he or she is satisfied as to the matters on which a member of staff of the residence is required to be satisfied under subclause (3) of this regulation. | The Manager or other senior staff member reviews the placement of CYPs in secure care every 7 days and records in the secure care register:  - Whether grounds under S368 still apply, and that the  - CYP cannot reasonably be managed except in secure care. |
| (5) Where any review is carried out under this regulation in respect of the continued detention of a child or young person in secure care, the details of the decision made, on that review, in respect of that detention shall be recorded in the secure care register. | The outcome of the reviews of the continued detention of CYP’s in secure care are recorded in the secure care register. |

|  |  |
| --- | --- |
| **48. Confinement to rooms of children and young persons in secure care —** | |
| (1) No child or young person placed in secure care shall be confined in his or her own room between the hours of 8 am and 8 pm on any day unless such confinement is necessary —  (a) On account of any illness, injury, or extreme emotional disturbance suffered by that child or young person; or  (b) In any case of emergency, or in order to maintain and restore order in the residence; or  (c) In the case of a confinement between 5 pm and 8 pm on any day to enforce a sanction under a specific behaviour management programme being applied to the child or young person. | No CYP in secure care is confined to their room between 8 am and 8 pm except if necessary for:  illness, injury or emotional disturbance  emergency or to maintain order  between 5 pm and 8 pm to enforce a sanction under the CYP’s behaviour management programme. |
| (2) Any confinement under subclause (1) of this regulation shall be for no longer than is reasonably necessary for the purpose. | Confinement is for no longer than reasonably necessary. |
| (3) The Manager shall ensure that the details of the confinement of any child or young person in any room pursuant to subclause (1) of this regulation, and the reasons for it are recorded in the daily log. | Details of reg.48 confinements to room, and the reasons for these, are recorded in the daily log. |
| **49. Contact with other children and young persons —** | |
| Subject to regulation 48 of these regulations, every child or young person placed in secure care shall be permitted to communicate freely at all reasonable times between the hour of 8 am and 8 pm. each day with any other child or young person placed in secure care. | Except when a reg.48 confinement is in force, CYPs in secure care are permitted to associate and communicate freely between 8 am and 8 pm. |
| **50. Meals of children and young persons in secure care —** | |
| (1) No child or young person placed in secure care shall be required to eat meals in his or her room unless the child or young person is confined to that room pursuant to regulation 48 of these regulations. | No CYP is required to eat their meal in their room in secure care unless Reg.48 in force. |
| (2) No child or young person shall be required to eat meals in any room in which there is any toilet facility. | No CYP is required to eat a meal in any room where there is a toilet. |
| **51. Range of planned, purposeful, and varied activities to be provided —** | |
| (1) Subject to the need to maintain the security of the children and young persons in a residence placed in secure care, every child or young person placed in secure care, including a child or young person who is confined to any room pursuant to regulation 48 of these regulations, shall have access to a range of planned, purposeful, and varied activities which are designed to enhance the life skills, social skills, and competency skills of the child or young person.  (2) The activities specified in subclause (1) of this regulation —  (a) Shall include (where practicable) cultural, recreational, social, sporting, and educational activities; and | Every CYP in secure care has access to a range of activities. |

|  |  |
| --- | --- |
| (b) Shall be made available at all reasonable times during a child’s or young person’s placement in secure care. | Activities provided are available at all reasonable times throughout the CYP’s stay in the secure care unit. |
| **PART 6 – RECORDS** | |
| **52. Admission register —** | |
| (1) Every residence shall maintain an admission register. | The residence maintains an admission register. |
| (2) The following particulars shall be entered in the admission register for every child or young person admitted to the residence:  (a) The full name of the child or young person: | The Christian and surnames of CYPs are recorded in the admission register. |
| (b) The date of birth of the child or young person: | The CYP’s date of birth is recorded in the admission register. |
| (c) If known, details sufficient to identify any iwi or tribal affiliations of the child or young person: | Iwi and tribal affiliations are recorded in the admission register where it is possible to identify these. |
| (d) If known, details sufficient to identify any affiliations of the child or young person with any other ethnic or cultural group: | Ethnic and cultural affiliations are recorded in the admission register where it is possible to identify these. |
| (e) The authority for the admission, and, where appropriate, the name and office of the person authorising the admission: | The authority for admission (section of the CYP&F Act) is recorded in the admission register, as well as the name of the staff member authorising the admission. |
| (f) If known, the date on which the child or young person is to be discharged from the residence | The proposed date of discharge, if this is known, is recorded in the admission register. |
| (g) If known or ascertainable, the full name, address, and contact number of –  (i) Any parent or guardian (other than the Director – General) if the child or young person; and  (ii) The person previously having the care of the child or young person: | If known, the contact details of the CYP’s parent/guardian or person previously having care of the CYP is recorded in the admissions register. |
| (h) The full name, address, and contact telephone number of any person whom the child or young person wishes to be notified concerning any significant matter affecting that child or young person which occurs in the residence. | The details of the person the CYP wishes to be informed of significant events during their stay in the residence is entered in the register. This may be different to the parent, guardian or previous caregiver. |
| **53. Personal files —** | |
| (1) Every residence shall maintain a personal file for every child or young person admitted to the residence. | A personal file is maintained for each CYP. Supplementary files to the main file can exist. |
| (2) Each personal file shall include the following information:  (a) The authority for the admission to the residence of the child or young person: | The current court order authorising admission to the residence is on the personal file. |

|  |  |
| --- | --- |
| (b) Particulars of the level of formal education attained by the child or young person: | The level of education attained prior to the CYP’s admission to the residence is recorded in the personal file. |
| (c) Particulars of any tribal, ethnic, or cultural affiliations of the child or young person: | If relevant, the details of the CYP’s iwi, ethnic or cultural affiliations are recorded in the personal file. |
| (d) Particulars of any religious belief and any church association of the child or young person: | Where applicable, details of the CYP’s religious beliefs are recorded in the personal file. |
| (e) The name of the Social Worker involved with the child or young person before admission to the residence: | The name of the field social worker is recorded in the personal file. |
| (f) The name, address, and contact telephone numbers of —  (i) Any barrister or solicitor or youth advocate who represents the child or young person: | The name of the CYP’s barrister or solicitor or youth advocate is recorded in the personal file. |
| (ii) Any lay advocate appointed under section 163 or section 326 of the Act for the child or young person: | If the CYP has a lay advocate, this is recorded in the personal file. |
| (iii) The medical practitioner, dentist, and optician attending the child or young person: | Where applicable, the name of the CYP’s doctor (may be residence doctor), dentist and optician are recorded in the personal file. |
| (iv) Any psychologist treating the child or young person: | If a psychologist is involved in the care of the CYP, this is recorded in the personal file. |
| (g) Particulars of any illness or injury currently suffered by the child or young person and the prescribed treatment for it: | Details of current illnesses and injuries, and the treatment for these, are recorded in the personal file. |
| (h) Particulars of any physical or other disability or handicap. | If the CYP has a disability, this is recorded in the personal file. |
| (3) Nothing in subclause (2) of this regulation requires the inclusion, in any personal file, of any information that members of staff of the residence do not have available to them and which they cannot reasonably ascertain. | If staff are unable to ascertain any of the above information then the detail wont be in the personal file. |
| **54. Daily log —** | |
| (1) Every residence shall maintain a daily log. | The residence maintains a daily log. |
| (2) Brief details of the following matters shall be entered in the daily log:  (a) The arrival of any child or young person at the residence, and the departure of any child or young person from the residence: | Admissions and discharges are recorded. |
| (b) Any illness or injury suffered by any child or young person in the residence: | CYP’s illness and injuries are recorded. |
| (c) Any serious breach of discipline or disruptive or destructive behaviour by a child or young person in the residence: | Incidents are recorded. |

|  |  |
| --- | --- |
| (d) The introduction of a child or young person in the residence to a behaviour management programme, and the removal of any child or young person from such a programme: | The commencement and ending of individual BMP’s for CYP’s are recorded. |
| (e) Any absconding by any child or young person from the residence, and the return of that child or young person to the residence: | Absconding and subsequent return to the residence, are recorded |
| [(f) those matters the details of which are required by section 384I or section 384K of the Act or any of regulations 5(6), 7(3), 8(2), 10(5), 11(6), 18(6), 19(1), 22(2), 39(6), 45(6), 48(3):] | The following are recorded in the daily log:  Whenever force is used to conduct a search.  Where a CYP is required to be naked in the presence of a staff member.  When a CYP is required to eat a meal separately.  The refusal to allow private communication, to receive a visit, to communicate or to meet the costs of any communication. |
| (g) Any other significant event occurring in the residence. | Significant events that have occurred are recorded in the daily log. |
| **55. Complaints register** | |
| (1) Every residence shall maintain a register of complaints made by children and young persons in the residence. | The residence maintains a complaints register. |
| (2) The following particulars shall be entered in the register:  (a) The date (if any) on which a complaint form was issued to a child or young person in the residence: | The date that the complaint form was issued to the CYP is recorded in the register. |
| (b) The name of the child or young person making the complaint: | The name of the CYP is recorded. |
| (c) The date —  (i) On which the complaint was made by the child or young person (if that complaint was made other than by completion of a complaint form); or  (ii) On which a completed complaint form was received from a child or young person: | The date that the completed complaint form was received from the young person, or the date they made a written complaint in a different format, or verbal complaint, is recorded. |
| (d) An identifying number (being the number on the complaint form) assigned by the Manager to the complaint: | The number of the complaint form is recorded. |
| (e) The name of the member of staff to whom the complaint was made (if the complaint was not made by the child or young person completing a complaint form): | If the complaint was received other than on a complaint form, the name of the staff member receiving the complaint is recorded. |
| (f) The date the child or young person was notified of receipt of the complaint by the Manager or, as the case requires, the grievance panel: | The date that the CYP was notified that the complaint was received is recorded. |

|  |  |
| --- | --- |
| (g) If the complaint is withdrawn by the child or young person, the date of that withdrawal: | When a complaint was withdrawn, the date that this occurred is recorded. |
| (h) The action taken on the complaint by the Manager and the date or dates of that action: | Both the action that the Manager regarding the complaint AND the date(s) of that action, is recorded. |
| (i) The findings of the Manager on the complaint: | The findings that the Manager made regarding the complaint are recorded. |
| (j) The date the child or young person is notified of those findings by the Manager: | The date that the CYP was notified of the findings regarding the complaint, is recorded. |
| (k) Whether the child or young person is satisfied or dissatisfied with those findings: | Whether the CYP was satisfied or not satisfied with the findings of the complaint is recorded. |
| (l) The date (if any) on which the child or young person requested the complaint to be referred to the grievance panel: | The date that the CYP requested the complaint to be referred to the grievance panel is recorded. |
| (m) The date on which the Manager referred the complaint to the grievance panel: | The date that the Manager referred the complaint to the grievance panel is recorded. |
| (n) The findings of the grievance panel on the complaint and the date of those findings: | Both the findings AND the date that those findings were made by the grievance panel, are recorded. |
| (o) The date the child or young person was notified of those findings by the grievance panel or the Manager. | The date that the CYP was notified of the grievance panel findings, is recorded. |
| **56. Secure care register —** | |
| (1) Every residence established for the purpose of section 364(2)(d) of the Act shall maintain a secure care register. | The residence maintains a secure care register. |
| (2) The following particulars shall be entered in the secure care register for every child or young person in the residence placed in secure care:  (a) The full name of the child or young person and the age of that child or young person at the time of placement: | The christian and surname of the CYP are recorded in the secure care register. |
| (b) The date and time of placement: | Both the date AND the time of placement are recorded. |
| (c) The ground under section 368 of the Act for placing the child or young person in secure care, and the reasons in support of that ground: | Both the (1) ground for the admission is one of those outlined in section 368, and (2) the reason(s) in support of the ground, are recorded. |

|  |  |
| --- | --- |
| (d) The full name, address, and contact telephone number of any person who is nominated by the child or young person for the purposes of section 369(1)(b) of the Act: | If the CYP nominates a person to be notified of the admission, their full details are recorded. |
| (e) The full name of each person who is notified under section 369 of the Act that the child or young person has been placed in secure care: | Record is made that the parent, guardian or person previously having care of the CYP has been notified of the admission. Refer (k) below.  Record is made that the CYP’s barrister, solicitor, or youth advocate is notified of the admission. |
| (f) Details of the plan proposed for the child or young person while he or she is in secure care: | A plan for the CYP while they are in secure care is recorded. |
| (g) The name of any medical practitioner, psychiatrist, psychologist, or other person providing specialist medical, psychiatric, psychological, or other services to the child or young person: | The names of the medical staff who provide services to the CYP are recorded. |
| (h) The apparent physical and mental health of the child or young person at the time of the placement: | BOTH the physical AND mental health of the CYP at the time of their placement in secure care is recorded. |
| (i) Such details as are required by regulation 47 of these regulations to be certified or recorded in the secure care register: | The daily review of the CYP and the outcome of these reviews are recorded.  The Manager/senior member of staff review the placement of CYP’s every 7 days, and record the outcome(s).  The outcome of reviews of continued retentions are recorded. |
| (j) Brief details of the decision of any Court or, as the case may be, any Registrar on any application made under section 371 or section 372 or section 377 or section 379 or section 380 or section 383 of the Act for the detention of that child or young person in secure care: | Court decisions re detention of CYP’s in secure care are recorded. |
| (k) If known or ascertainable, the full name, address, and contact telephone number of —  (I )Any parent or guardian (other than the Director-General) of the child or young person; and  (ii) Any person previously having the care of the child or young person. | Refer (e) above. |
| **57. Computerisation of records—** | |
| Each of the types of record required to be maintained under this Part of these regulations may be maintained in computerised form, but each type of record so maintained shall be separately identified within the computer system. | All computerised records are identified separately within the system, for example:  - Admissions register  - Incidents reports  - Search reports  - Daily log, etc. |

|  |  |
| --- | --- |
| **58. Access, use and retention of records —** | |
| (1) Each of the types of records required to be maintained under this Part of these regulations shall be kept securely and treated as confidential subject to –  (a) Any provision of any enactment under or by virtue of which access may be obtained or given to records or information concerning a child or young person:  (b) Any Court order for access to records or information concerning a child or young person:  (c) Subclause (2) of this regulation. | Records are kept secure and confidential  so that they cannot be viewed by unauthorised persons.  For example:  - there is appropriate password - protection in place;  - screen savers are used;  - No storage of information on flash drives.  Hard copy records e.g. files and registers, are stored in secure areas. |
| (2) The following persons may have access to any part of those records that relates to a particular child or young person :  (a) Any member of staff of the residence who requires such access for any purpose directly relating to his or her functions or duties as the Manager or a member of staff of the residence:  (b) Any person conducting an investigation into a complaint made by the child or young person under the grievance procedure of the residence:  (c) Any member of a grievance panel in the course of conducting a review under regulation 31 of these regulations:  (d) Any person conducting an inspection of the residence pursuant to regulation 37 of these regulations:  (e) The child or young person:  (f) Any barrister or solicitor or youth advocate or lay advocate —  (i) Representing the child or young person; or  (ii) In any proceedings, appointed to assist the Court:  (g) Any person (being the Director-General, or a person acting under the authority of the Director-  General, or a member of the Police) who requires such access —  (i) To take any criminal, civil, or disciplinary action against another person (being a person who is or was a member of staff of the residence, or a person engaged to provide services to the residence, or an employee of any such person so engaged) arising out of any alleged act or omission of that other person in relation to the child or young person; or  (ii) To conduct any investigation into whether any such action should be taken:  (h) Any person (being a person who is or was a member of staff of the residence, or a person engaged to provide services to the residence, or an employee of any such person so engaged) who requires such access to defend any such action:  (i) The Director-General, or a person acting under the authority of the Director-General, or any Social Worker or Care and Protection Co-ordinator or Youth Justice Co-ordinator who requires such access for any purpose directly relating to the Director-General's, or that Social Worker's or that Co-ordinator's functions or duties under the Act:  (j) Any barrister or solicitor (including a barrister or solicitor who is an employee of the Department) who is engaged to advise or represent a person mentioned in any of paragraphs (a) to (d) or paragraphs (g) to (i) of this subclause in relation to the purpose for which that person may have access to the records. | Records are accessible to authorised persons. |
| (3) The records referred to in subclause (1) of this regulation shall be retained for a period of at least 25 years from the date of birth of the child or young person to whom they relate, and shall be dealt with in accordance with the provisions of the Archives Act 1957. | Records are retained for at least 25 years from date of birth of CYP.  Archiving responsibility - not a compliance issue for the Residence. |