
STATUTORY INSTRUMENTS

2002 No. 57

The Fostering Services Regulations 2002

**PART I
GENERAL**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fostering Services Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations extend to England only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1989 Act” means the Children Act 1989;

“the 2000 Act” means the Care Standards Act 2000;

“approval” means approval as a foster parent in accordance with regulation 28 and references to a person being approved shall be construed accordingly;

“area authority” means the local authority in whose area a child is placed, in any case where that local authority is not the child’s responsible authority;

“assessment” shall be construed in accordance with regulation 27(1);

“child protection enquiries” has the meaning given to it by regulation 12(4);

“children’s guide” means the written guide produced in accordance with regulation 3(3);

“foster care agreement” has the meaning given to it by regulation 28(5)(b);

“foster placement agreement” has the meaning given to it by regulation 34(3);

“foster parent” means a person with whom a child is placed or may be placed under these Regulations, and except in Parts IV and V of these Regulations, includes any person who is not a foster parent but with whom a child is placed by a local authority under regulation 38(2);

“fostering panel” means a panel established in accordance with regulation 24;

“fostering service” means—

(a) a fostering agency within the meaning of section 4(4) of the 2000 Act; or

(b) a local authority fostering service;

“fostering service provider” means—

(a) in relation to a fostering agency, a registered person; or

(b) in relation to a local authority fostering service, a local authority;

“general practitioner” means a registered medical practitioner who—

- (a) provides general medical services under Part II of the National Health Service Act 1977⁽¹⁾;
- (b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997⁽²⁾; or
- (c) provides services which correspond to services provided under Part II of the National Health Service Act 1977 otherwise than in pursuance of that Act;

“independent fostering agency” means a fostering agency falling within section 4(4)(a) of the 2000 Act (discharging functions of local authorities in connection with the placing of children with foster parents);

“local authority fostering service” means the discharge by a local authority of relevant fostering functions within the meaning of section 43(3)(b) of the 2000 Act;

“organisation” means a body corporate or any unincorporated association other than a partnership;

“parent” in relation to a child, includes any person who has parental responsibility for him;

“placement” means any placement of a child made by—

- (a) a local authority under section 23(2)(a) of the 1989 Act or a voluntary organisation under section 59(1)(a) of the 1989 Act which is not—
 - (i) a placement with a person who falls within section 23(4) of that Act; or
 - (ii) a placement for adoption; and
- (b) except in Part V of these Regulations includes a placement arranged by an independent fostering agency acting on behalf of a local authority,

and references to a child who is placed shall be construed accordingly;

“registered manager” in relation to a fostering agency means a person who is registered under Part II of the 2000 Act as the manager of the fostering agency;

“registered person” in relation to a fostering agency means any person who is the registered provider or the registered manager of the fostering agency;

“registered provider” in relation to a fostering agency means a person who is registered under Part II of the 2000 Act as the person carrying on the fostering agency⁽³⁾;

“responsible authority” means, in relation to a child, the local authority or voluntary organisation as the case may be, responsible for the child’s placement;

“responsible individual” shall be construed in accordance with regulation 5(2)(c)(i);

“statement of purpose” means the written statement compiled in accordance with regulation 3(1).

- (2) In these Regulations, a reference—
 - (a) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
 - (b) in a regulation or Schedule to a numbered paragraph, is to the paragraph in that regulation or Schedule bearing that number;
 - (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(1) 1977 c. 49.

(2) 1997 c. 46.

(3) By section 121(4) of the 2000 Act the person who carries on a fostering agency falling within section 4(4)(b) of that Act (a voluntary organisation which places children with foster parents under section 59(1) of the 1989 Act) is the voluntary organisation itself.

(3) In these Regulations, references to employing a person include employing a person whether or not for payment, and whether under a contract of service or a contract for services, and allowing a person to work as a volunteer, but do not include allowing a person to act as a foster parent, and references to an employee or to a person being employed shall be construed accordingly.

Statement of purpose and children’s guide

3.—(1) The fostering service provider shall compile, in relation to the fostering service, a written statement (in these Regulations referred to as “the statement of purpose”) which shall consist of—

- (a) a statement of the aims and objectives of the fostering service; and
- (b) a statement as to the services and facilities to be provided by the fostering service.

(2) The fostering service provider shall provide a copy of the statement of purpose to the Commission⁽⁴⁾ and shall make it available, upon request, for inspection by—

- (a) any person working for the purposes of the fostering service;
- (b) any foster parent or prospective foster parent of the fostering service;
- (c) any child placed with a foster parent by the fostering service; and
- (d) the parent of any such child.

(3) The fostering service provider shall produce a written guide to the fostering service (in these Regulations referred to as “the children’s guide”) which shall include—

- (a) a summary of the statement of purpose;
- (b) a summary of the procedure established—
 - (i) in the case of an independent fostering agency, under regulation 18(1);
 - (ii) in the case of a local authority fostering service, under section 26(3) of the 1989 Act; and
 - (iii) in the case of a fostering agency falling within section 4(4)(b) of the 2000 Act, under section 59(4)(b) of the 1989 Act⁽⁵⁾; and
- (c) the address and telephone number of the Commission.

(4) The fostering service provider shall provide a copy of the children’s guide to the Commission, to each foster parent approved by the fostering service provider and (subject to his age and understanding), to each child placed by it.

(5) Subject to paragraph (6) of this regulation the fostering service provider shall ensure that the fostering service is at all times conducted in a manner which is consistent with its statement of purpose.

(6) Nothing in paragraph (5) shall require or authorise the fostering service provider to contravene or not comply with—

- (a) any other provision of these Regulations; or
- (b) in the case of a fostering agency, any conditions for the time being in force in relation to the registration of the registered person under Part II of the 2000 Act.

Review of statement of purpose and children’s guide

4. The fostering service provider shall—

(4) By virtue of section 6(1) of the 2000 Act, the Commission means the National Care Standards Commission established under that Act.

(5) The current Regulations are the Representations Procedure (Children) Regulations 1991 (S.I.1991/894, as amended by S.I. 1991/2033, S.I. 1993/3069, and S.I. 2001/2874).

- (a) keep under review and where appropriate revise the statement of purpose and children’s guide;
- (b) notify the Commission of any such revision within 28 days; and
- (c) if the children’s guide is revised, supply a copy to each foster parent approved by the fostering service provider and (subject to his age and understanding), to each child placed by it.

PART II

REGISTERED PERSONS AND MANAGEMENT OF LOCAL AUTHORITY FOSTERING SERVICE

Fostering agency—fitness of provider

- 5.—(1) A person shall not carry on a fostering agency unless he is fit to do so.
- (2) A person is not fit to carry on a fostering agency unless the person—
- (a) in the case of an independent fostering agency, is an individual who carries on the fostering agency—
 - (i) otherwise than in partnership with others and he satisfies the requirements set out in paragraph (3);
 - (ii) in partnership with others, and he and each of his partners satisfies the requirements set out in paragraph (3);
 - (b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);
 - (c) is an organisation and—
 - (i) the organisation has given notice to the Commission of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the fostering agency; and
 - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) he is of integrity and good character;
 - (b) he is physically and mentally fit to carry on the fostering agency; and
 - (c) full and satisfactory information is available in relation to him—
 - (i) except where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 1;
 - (ii) where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 7 of Schedule 1.
- (4) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 1 is not available to an individual because any provision of the Police Act 1997(6) has not been brought into force.
- (5) A person shall not carry on a fostering agency if—

(6) 1997 c. 50. See the footnotes to paragraph 2 of Schedule 1.

- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or
- (b) he has made a composition or arrangement with his creditors and has not been discharged in respect of it.

Fostering agency—appointment of manager

- 6.—(1) The registered provider shall appoint an individual to manage the fostering agency.
- (2) Where the registered provider is—
- (a) an organisation, it shall not appoint the person who is the responsible individual as the manager;
 - (b) a partnership, it shall not appoint any of the partners as the manager.
- (3) The registered provider shall forthwith notify the Commission of—
- (a) the name of any person appointed in accordance with this regulation; and
 - (b) the date on which the appointment is to take effect.

Fostering agency—fitness of manager

- 7.—(1) A person shall not manage a fostering agency unless he is fit to do so.
- (2) A person is not fit to manage a fostering agency unless—
- (a) he is of integrity and good character;
 - (b) having regard to the size of the fostering agency, its statement of purpose, and the numbers and needs of the children placed by it—
 - (i) he has the qualifications, skills and experience necessary for managing the fostering agency; and
 - (ii) he is physically and mentally fit to manage a fostering agency;
 - (c) full and satisfactory information is available in relation to him—
 - (i) except where paragraph (3) applies in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 1;
 - (ii) where paragraph (3) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 7 of Schedule 1.
- (3) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 1 is not available to an individual because any provision of the Police Act 1997(7) has not been brought into force.

Registered person—general requirements

- 8.—(1) The registered provider and the registered manager shall, having regard to—
- (a) the size of the fostering agency, its statement of purpose, and the numbers and needs of the children placed by it; and
 - (b) the need to safeguard and promote the welfare of the children placed by the fostering agency,
- carry on or manage the fostering agency (as the case may be) with sufficient care, competence and skill.

(7) See footnote to regulation 6(4).

(2) If the registered provider is—

- (a) an individual, he shall undertake;
- (b) an organisation, it shall ensure that the responsible individual undertakes;
- (c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the fostering agency.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the fostering agency.

Notification of offences

9. Where the registered person or the responsible individual is convicted of any criminal offence, whether in England and Wales or elsewhere, he shall forthwith give notice in writing to the Commission of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted; and
- (c) the penalty imposed on him in respect of the offence.

Local authority fostering service—manager

10.—(1) Each local authority shall appoint one of its officers to manage the local authority fostering service, and shall forthwith notify the Commission of—

- (a) the name of the person appointed; and
- (b) the date on which the appointment is to take effect.

(2) Regulations 7, 8 and 9 shall apply to the manager of a local authority fostering service, in relation to that service, as they apply to the manager of a fostering agency in relation to the fostering agency.

(3) The local authority shall forthwith notify the Commission if the person appointed under paragraph (1) ceases to manage the local authority fostering service.

PART III

CONDUCT OF FOSTERING SERVICES

Independent fostering agencies—duty to secure welfare

11. The registered person in respect of an independent fostering agency⁽⁸⁾ shall ensure that—

- (a) the welfare of children placed or to be placed with foster parents is safeguarded and promoted at all times; and
- (b) before making any decision affecting a child placed or to be placed with foster parents due consideration is given to—
 - (i) the child's wishes and feelings in the light of his age and understanding; and
 - (ii) his religious persuasion, racial origin and cultural and linguistic background.

⁽⁸⁾ Similar duties already apply to a fostering agency within the meaning of section 4(4)(b) of the 2000 Act by virtue of section 61 of the Children Act 1989, and to a local authority by virtue of section 22 of the Children Act.

Arrangements for the protection of children

- 12.**—(1) The fostering service provider shall prepare and implement a written policy which—
- (a) is intended to safeguard children placed with foster parents from abuse or neglect; and
 - (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.
- (2) The procedure under paragraph (1)(b) shall, subject to paragraph (3), provide in particular for—
- (a) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in relation to any child placed by the fostering service provider;
 - (b) the prompt referral to the area authority of any allegation of abuse or neglect affecting any child placed by the fostering service provider;
 - (c) notification of the instigation and outcome of any child protection enquiries involving a child placed by the fostering service provider, to the Commission;
 - (d) written records to be kept of any allegation of abuse or neglect, and of the action taken in response;
 - (e) consideration to be given to the measures which may be necessary to protect children placed with foster parents following an allegation of abuse or neglect; and
 - (f) arrangements to be made for persons working for the purposes of a fostering service, foster parents and children placed by the fostering service, to have access to information which would enable them to contact—
 - (i) the area authority; and
 - (ii) the Commission,regarding any concern about child welfare or safety.
- (3) Sub-paragraphs (a), (c) and (f)(i) of paragraph (2) do not apply to a local authority fostering service.
- (4) In this regulation “child protection enquiries” means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the 1989 Act relating to the protection of children.

Behaviour management and absence from foster parent’s home

- 13.**—(1) The fostering service provider shall prepare and implement a written policy on acceptable measures of control, restraint and discipline of children placed with foster parents.
- (2) The fostering service provider shall take all reasonable steps to ensure that—
- (a) no form of corporal punishment is used on any child placed with a foster parent;
 - (b) no child placed with foster parents is subject to any measure of control, restraint or discipline which is excessive or unreasonable; and
 - (c) physical restraint is used on a child only where it is necessary to prevent likely injury to the child or other persons or likely serious damage to property.
- (3) The fostering service provider shall prepare and implement a written procedure to be followed if a child is absent from a foster parent’s home without permission.

Duty to promote contact

- 14.** The fostering service provider shall, subject to the provisions of the foster placement agreement and any court order relating to contact, promote contact between a child placed with a

foster parent and his parents, relatives and friends unless such contact is not reasonably practicable or consistent with the child's welfare.

Health of children placed with foster parents

15.—(1) The fostering service provider shall promote the health and development of children placed with foster parents.

(2) In particular the fostering service provider shall ensure that—

- (a) each child is registered with a general practitioner;
- (b) each child has access to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services as he may require;
- (c) each child is provided with such individual support, aids and equipment which he may require as a result of any particular health needs or disability he may have; and
- (d) each child is provided with guidance, support and advice on health, personal care and health promotion issues appropriate to his needs and wishes.

Education, employment and leisure activities

16.—(1) The fostering service provider shall promote the educational attainment of children placed with foster parents.

(2) In particular the fostering service provider shall—

- (a) establish a procedure for monitoring the educational attainment, progress and school attendance of children placed with foster parents;
- (b) promote the regular school attendance and participation in school activities of school aged children placed with foster parents; and
- (c) provide foster parents with such information and assistance, including equipment, as may be necessary to meet the educational needs of children placed with them.

(3) The fostering service provider shall ensure that any education it provides for any child placed with foster parents who is of compulsory school age but not attending school is efficient and suitable to the child's age, ability, aptitude, and any special educational needs he may have.

(4) The fostering service provider shall ensure that foster parents promote the leisure interests of children placed with them.

(5) Where any child placed with foster parents has attained the age where he is no longer required to receive compulsory full-time education, the fostering service provider shall assist with the making of, and give effect to, the arrangements made for his education, training and employment.

Support, training and information for foster parents

17.—(1) The fostering service provider shall provide foster parents with such training, advice, information and support, including support outside office hours, as appears necessary in the interests of children placed with them.

(2) The fostering service provider shall take all reasonable steps to ensure that foster parents are familiar with, and act in accordance with the policies established in accordance with regulations 12(1) and 13(1) and (3).

(3) The fostering service provider shall ensure that, in relation to any child placed or to be placed with him, a foster parent is given such information, which is kept up to date, as to enable him to provide appropriate care for the child, and in particular that each foster parent is provided with appropriate information regarding—

- (a) the state of health and health needs of any child placed or to be placed with him; and
- (b) the arrangements for giving consent to the child's medical or dental examination or treatment.

Independent fostering agencies—complaints and representations

18.—(1) Subject to paragraph (7), the registered person in respect of an independent fostering agency⁽⁹⁾ shall establish a written procedure for considering complaints made by or on behalf of children placed by the agency and foster parents approved by it.

(2) The procedure shall, in particular, provide—

- (a) for an opportunity for informal resolution of the complaint at an early stage;
- (b) that no person who is the subject of a complaint takes part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;
- (c) for dealing with complaints about the registered person;
- (d) for complaints to be made by a person acting on behalf of a child;
- (e) for arrangements for the procedure to be made known to—
 - (i) children placed by the agency;
 - (ii) their parents;
 - (iii) persons working for the purposes of the independent fostering agency.

(3) A copy of the procedure shall be supplied on request to any of the persons mentioned in paragraph (2)(e).

(4) The copy of the procedure supplied under paragraph (3) shall include—

- (a) the name, address and telephone number of the Commission; and
- (b) details of the procedure (if any) which has been notified to the registered person by the Commission for the making of complaints to it relating to independent fostering agencies.

(5) The registered person shall ensure that a written record is made of any complaint or representation, the action taken in response to it, and the outcome of the investigation.

(6) The registered person shall ensure that—

- (a) children are enabled to make a complaint or representation; and
- (b) no child is subject to any reprisal for making a complaint or representation.

(7) The registered person shall supply to the Commission at its request a statement containing a summary of any complaints made during the preceding twelve months and the action taken in response.

(8) This regulation (apart from paragraph (5)) does not apply in relation to any matter to which the Representations Procedure (Children) Regulations 1991⁽¹⁰⁾ applies.

Staffing of fostering service

19. The fostering service provider shall ensure that there is, having regard to—

- (a) the size of the fostering service, its statement of purpose, and the numbers and needs of the children placed by it; and

⁽⁹⁾ Representations, including complaints, about the discharge of a local authority's functions under Part III of the 1989 Act and about the provision by a voluntary organisation of accommodation to any child who is not looked after by a local authority, are provided for by sections 26(3) to (8), and 59(4) of the 1989 Act, and the Representations Procedure (Children) Regulations 1991 (S.I. 1991/894, as amended by S.I. 1991/2033, S.I. 1993/3069 and S.I. 2001/2874).

⁽¹⁰⁾ See footnote to regulation 18(1).

- (b) the need to safeguard and promote the health and welfare of children placed with foster parents,

a sufficient number of suitably qualified, competent and experienced persons working for purposes of the fostering service.

Fitness of workers

20.—(1) The fostering service provider shall not—

- (a) employ a person to work for the purposes of the fostering service unless that person is fit to work for the purposes of a fostering service; or
- (b) allow a person to whom paragraph (2) applies, to work for the purposes of the fostering service unless that person is fit to work for the purposes of a fostering service.

(2) This paragraph applies to any person who is employed by a person other than the fostering service provider in a position in which he may in the course of his duties have regular contact with children placed by the fostering service.

(3) For the purposes of paragraph (1), a person is not fit to work for the purposes of a fostering service unless—

- (a) he is of integrity and good character;
- (b) he has the qualifications, skills and experience necessary for the work he is to perform;
- (c) he is physically and mentally fit for the work he is to perform; and
- (d) full and satisfactory information is available in relation to him in respect of the following matters—
 - (i) except where paragraph (4) applies, each of the matters specified in paragraphs 1 to 6 of Schedule 1;
 - (ii) where paragraph (4) applies, each of the matters specified in paragraphs 1 and 3 to 7 of Schedule 1.

(4) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 1 is not available to an individual because any provision of the Police Act 1997⁽¹¹⁾ has not been brought into force.

(5) The fostering service provider shall take reasonable steps to ensure that any person working for a fostering service who is not employed by him and to whom paragraph (2) does not apply, is appropriately supervised while carrying out his duties.

(6) Subject to regulation 50(7), the fostering service provider shall not employ to work for the purposes of the fostering service in a position to which paragraph (7) applies, a person who is—

- (a) a foster parent approved by the fostering service; or
- (b) a member of the household of such a foster parent.

(7) This paragraph applies to any management, social work or other professional position, unless in the case of a position which is not a management or a social work position, the work is undertaken on an occasional basis, as a volunteer, or for no more than 5 hours in any week.

Employment of staff

21.—(1) The fostering service provider shall—

- (a) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and

⁽¹¹⁾ See footnote to regulation 6(4).

- (b) provide all employees with a job description outlining their responsibilities.
- (2) The fostering service provider shall operate a disciplinary procedure which, in particular—
 - (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of children placed with foster parents;
 - (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse of a child placed with foster parents to an appropriate person is a ground on which disciplinary proceedings may be instituted.
- (3) For the purposes of paragraph (2)(b), an appropriate person is—
 - (a) in any case—
 - (i) the registered person, or the manager of the local authority fostering service as the case may be;
 - (ii) an officer of the Commission;
 - (iii) an officer of the area authority if applicable;
 - (iv) a police officer;
 - (v) an officer of the National Society for the Prevention of Cruelty to Children;
 - (b) in the case of an employee of an independent fostering agency, an officer of the responsible authority;
 - (c) in the case of an employee of a fostering agency, an officer of the local authority in whose area the agency is situated.
- (4) The fostering service provider shall ensure that all persons employed by him—
 - (a) receive appropriate training, supervision and appraisal; and
 - (b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

Records with respect to fostering services

22.—(1) The fostering service provider shall maintain and keep up to date the records specified in Schedule 2.

(2) The records referred to in paragraph (1) shall be retained for at least 15 years from the date of the last entry.

Fitness of premises

23.—(1) The fostering service provider shall not use premises for the purposes of a fostering service unless the premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

- (2) A fostering service provider shall ensure—
 - (a) that there are adequate security arrangements at the premises, in particular that there are secure facilities for the storage of records; and
 - (b) that any records which are stored away from the premises are kept in conditions of appropriate security.

PART IV

APPROVAL OF FOSTER PARENTS

Establishment of fostering panel

24.—(1) Subject to paragraph (5), the fostering service provider shall establish at least one panel, to be known as a fostering panel, in accordance with this regulation.

(2) The fostering service provider shall appoint to chair the panel either—

- (a) a senior member of staff of the fostering service provider who is not responsible for the day to day management of any person carrying out assessments of prospective foster parents; or
- (b) such other person not being an employee, member, partner or director of the fostering service provider, who has the skills and experience necessary for chairing a fostering panel.

(3) Subject to paragraph (5), the fostering panel shall consist of no more than 10 members including the person appointed under paragraph (2) and shall include—

- (a) two social workers employed by the fostering service provider, one of whom has child care expertise and the other of whom has expertise in the provision of a fostering service;
- (b) in the case of a fostering agency—
 - (i) if the registered provider is an individual, that individual;
 - (ii) if the registered provider is an organisation, at least one of its directors or the responsible individual;
 - (iii) if the registered provider is a partnership, at least one of the partners;
- (c) in the case of a local authority fostering service, at least one elected member of the local authority; and
- (d) at least four other persons (in this regulation referred to as “independent members”), including at least one person who is, or within the previous two years has been, a foster parent for a fostering service provider other than the one whose fostering panel is being established.

(4) The fostering service provider shall appoint a member of the fostering panel who will act as chair if the person appointed to chair the panel is absent or his office is vacant (“the vice chair”).

(5) A fostering panel may be established jointly by any two but not more than three fostering service providers, and if such a fostering panel is established—

- (a) the maximum number of members who may be appointed to that panel is eleven;
- (b) each fostering service provider shall appoint two persons to the panel, one of whom falls within paragraph (3)(a), and the other of whom falls within paragraph (3)(b) or (c), as the case may be;
- (c) by agreement between the fostering service providers there shall be appointed—
 - (i) a person to chair the panel;
 - (ii) at least four independent members including at least one person who is, or within the previous two years has been, a foster parent for a fostering service provider other than any of those whose fostering panel is being established; and
 - (iii) a member of the panel who will act as chair if the person appointed to chair the panel is absent or his office is vacant (“the vice chair”).

(6) A fostering panel member shall hold office for a term not exceeding three years, and may not hold office for the panel of the same fostering service provider for more than two consecutive terms.

(7) Any panel member may resign his office at any time by giving one month's notice in writing to the fostering service provider.

(8) Where a fostering service provider is of the opinion that any member of the fostering panel is unsuitable or unable to remain in office, it may terminate his office at any time by giving him notice in writing.

(9) A person shall not be appointed as an independent member of a fostering panel if—

- (a) he is a foster parent approved by the fostering service provider;
- (b) he is employed by the fostering service provider;
- (c) he is concerned in the management of the fostering service provider;
- (d) in the case of a local authority fostering service, he is an elected member of the local authority; or
- (e) in the case of a fostering agency, he is related to an employee of the registered provider, or to any person concerned in the management of the fostering agency.

(10) For the purposes of paragraph (9)(e), a person ("person A") is related to another person ("person B") if he is—

- (a) a member of the household of, or married to person B;
- (b) the son, daughter, mother, father, sister or brother of person B; or
- (c) the son, daughter, mother, father, sister or brother of the person to whom person B is married.

Meetings of fostering panel

25.—(1) Subject to paragraph (3), no business shall be conducted by a fostering panel unless at least five of its members, including the person appointed to chair the panel, or the vice chair, at least one of the social workers employed by the fostering service and at least two of the independent members, meet as a panel.

(2) A fostering panel shall make a written record of its proceedings and the reasons for its recommendations.

(3) In the case of a joint fostering panel, no business shall be conducted unless at least six of its members, including the person appointed to chair the panel, or the vice chair, and one social worker from each fostering service, meet as a panel.

Functions of fostering panel

26.—(1) The functions of the fostering panel in respect of cases referred to it by the fostering service provider are—

- (a) to consider each application for approval and to recommend whether or not a person is suitable to act as a foster parent;
- (b) where it recommends approval of an application, to recommend the terms on which the approval is to be given;
- (c) to recommend whether or not a person remains suitable to act as a foster parent, and whether or not the terms of his approval remain appropriate—
 - (i) on the first review carried out in accordance with regulation 29(1); and
 - (ii) on the occasion of any other review when requested to do so by the fostering service provider in accordance with regulation 29(5); and
- (d) to consider any case referred to it under regulation 28(8) or 29(9).

- (2) The fostering panel shall also—
- (a) advise on the procedures under which reviews in accordance with regulation 29 are carried out by the fostering service provider and periodically monitor their effectiveness;
 - (b) oversee the conduct of assessments carried out by the fostering service provider; and
 - (c) give advice and make recommendations on such other matters or cases as the fostering service provider may refer to it.
- (3) In this regulation “recommend” means recommend to the fostering service provider.

Assessment of prospective foster parents

27.—(1) The fostering service provider shall carry out an assessment of any person whom it considers may be suitable to become a foster parent, in accordance with this regulation.

(2) If the fostering service provider considers that a person may be suitable to act as a foster parent it shall—

- (a) obtain the information specified in Schedule 3 relating to the prospective foster parent and other members of his household and family, and any other information it considers relevant;
- (b) interview at least two persons nominated by the prospective foster parent to provide personal references for him, and prepare written reports of the interviews;
- (c) subject to paragraph (3), consult with, and take into account the views of, the local authority in whose area the prospective foster parent lives;
- (d) having regard to these matters consider whether the prospective foster parent is suitable to act as a foster parent and whether his household is suitable for any child in respect of whom approval may be given;
- (e) prepare a written report on him which includes the matters set out in paragraph (4); and
- (f) refer the report to the fostering panel and notify the prospective foster parent accordingly.

(3) Paragraph (2)(c) does not apply where the fostering service provider is a local authority and the applicant lives in the area of that authority.

(4) The report referred to in paragraph (2)(e) shall include the following matters in relation to the prospective foster parent—

- (a) the information required by Schedule 3 and any other information the fostering service provider considers relevant;
- (b) the fostering service provider’s assessment of his suitability to act as a foster parent; and
- (c) the fostering service provider’s proposals about the terms and conditions of any approval.

(5) Subject to paragraph (6), a person shall not be regarded as suitable to act as a foster parent if he or any member of his household aged 18 or over—

- (a) has been convicted of a specified offence committed at the age of 18 or over; or
- (b) has been cautioned by a constable in respect of any such offence which, at the time the caution was given, he admitted.

(6) The fostering service provider may regard a person to whom paragraph (5) would, apart from this paragraph apply, as suitable to act or to continue to act, as the case may be, as a foster parent in relation to a particular named child or children if the fostering service provider is satisfied that the welfare of that child or those children requires it, and either—

- (a) the person, or a member of his household, is a relative of the child; or
- (b) the person is already acting as a foster parent for the child.

- (7) In this regulation “specified offence” means—
- (a) an offence against a child;
 - (b) an offence specified in Schedule 4;
 - (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979⁽¹²⁾ in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)⁽¹³⁾ where the prohibited goods included indecent photographs of children under the age of 16;
 - (d) any other offence involving bodily injury to a child or young person, other than an offence of common assault or battery, and

the expression “offence against a child” has the meaning given to it by section 26(1) of the Criminal Justice and Court Services Act 2000⁽¹⁴⁾ except that it does not include an offence contrary to sections 6, 12 or 13 of the Sexual Offences Act 1956 (sexual intercourse with a girl aged 13 to 16, buggery, or indecency between men)⁽¹⁵⁾ in a case where the offender was under the age of 20 at the time the offence was committed.

Approval of foster parents

28.—(1) A fostering service provider shall not approve a person who has been approved as a foster parent by another fostering service provider, and whose approval has not been terminated.

- (2) A fostering service provider shall not approve a person as a foster parent unless—
- (a) it has completed its assessment of his suitability; and
 - (b) its fostering panel has considered the application.
- (3) A fostering service provider shall in deciding whether to approve a person as a foster parent and as to the terms of any approval, take into account the recommendation of its fostering panel.
- (4) No member of its fostering panel shall take part in any decision made by a fostering service provider under paragraph (3).
- (5) If a fostering service provider decides to approve a person as a foster parent it shall—
- (a) give him notice in writing specifying the terms of the approval, for example, whether it is in respect of a particular named child or children, or number and age range of children, or of placements of any particular kind, or in any particular circumstances; and
 - (b) enter into a written agreement with him covering the matters specified in Schedule 5 (in these Regulations referred to as the “foster care agreement”).
- (6) If a fostering service provider considers that a person is not suitable to act as a foster parent it shall—
- (a) given him written notice that it proposes not to approve him, together with its reasons and a copy of the fostering panel’s recommendation; and
 - (b) invite him to submit any written representations within 28 days of the date of the notice.
- (7) If the fostering service provider does not receive any representations within the period referred to in paragraph (6)(b), it may proceed to make its decision.
- (8) If the fostering service provider receives any written representations within the period referred to in paragraph (6)(b), it shall—
- (a) refer the case to the fostering panel for further consideration; and

⁽¹²⁾ 1979 c. 2.

⁽¹³⁾ 1876 c. 36.

⁽¹⁴⁾ 2000 c. 43.

⁽¹⁵⁾ 1956 c. 69.

- (b) make its decision, taking into account any fresh recommendation made by the fostering panel.
- (9) As soon as practicable after making the decision referred to in paragraph (7) or (8)(b) as the case may be, the fostering service provider shall notify the prospective foster parent in writing and—
 - (a) if the decision is to approve the person as a foster parent, comply with paragraph (5) in relation to him; or
 - (b) if the decision is not to approve the person, provide written reasons for its decision.

Reviews and terminations of approval

29.—(1) The fostering service provider shall review the approval of each foster parent in accordance with this regulation.

(2) A review shall take place not more than a year after approval, and thereafter whenever the fostering service provider considers it necessary, but at intervals of not more than a year.

(3) When undertaking a review, the fostering service provider shall—

- (a) make such enquiries and obtain such information as it considers necessary in order to review whether the person continues to be suitable as to act as a foster parent and his household continues to be suitable; and
- (b) seek and take into account the views of—
 - (i) the foster parent;
 - (ii) (subject to the child's age and understanding) any child placed with the foster parent; and
 - (iii) any responsible authority which has within the preceding year placed a child with the foster parent.

(4) At the conclusion of the review the fostering service provider shall prepare a written report, setting out whether—

- (a) the person continues to be suitable to act as a foster parent and his household continues to be suitable; and
- (b) the terms of his approval continue to be appropriate.

(5) The fostering service provider shall on the occasion of the first review under this regulation, and may on any subsequent review, refer its report to the fostering panel for consideration.

(6) If the fostering service provider decides, taking into account any recommendation made by the fostering panel, that the foster parent and his household continue to be suitable and that the terms of his approval continue to be appropriate, it shall give written notice to the foster parent of its decision.

(7) If, taking into account any recommendation made by the fostering panel, the fostering service provider is no longer satisfied that the foster parent and his household continue to be suitable, or that the terms of the approval are appropriate, it shall—

- (a) give written notice to the foster parent that it proposes to terminate, or revise the terms of, his approval as the case may be, together with its reasons, and
- (b) invite him to submit any written representations within 28 days of the date of the notice.

(8) If the fostering service provider does not receive any representations within the period referred to in paragraph (7)(b), it may proceed to make its decision.

(9) If the fostering service provider receives any written representations within the period referred to in paragraph (7)(b), it shall—

- (a) refer the case to the fostering panel for its consideration; and
- (b) make its decision, taking into account any recommendation made by the fostering panel.

(10) As soon as practicable after making the decision referred to in paragraph (8) or (9)(b), the fostering service provider shall give written notice to the foster parent stating, as the case may be—

- (a) that the foster parent and his household continue to be suitable, and that the terms of the approval continue to be appropriate;
- (b) that his approval is terminated from a specified date, and the reasons for the termination; or
- (c) the revised terms of the approval and the reasons for the revision.

(11) A foster parent may give notice in writing to the fostering service provider at any time that he no longer wishes to act as a foster parent, whereupon his approval is terminated with effect from 28 days from the date on which the notice is received by the fostering service provider.

(12) A copy of any notice given under this regulation shall be sent to the responsible authority for any child placed with the foster parent (unless the responsible authority is also the fostering service provider), and the area authority.

Case records relating to foster parents and others

30.—(1) A fostering service provider shall maintain a case record for each foster parent approved by it which shall include copies of the documents specified in paragraph (2) and the information specified in paragraph (3).

(2) The documents referred to in paragraph (1) are, as the case may be—

- (a) the notice of approval given under regulation 28(5)(a);
- (b) the foster care agreement;
- (c) any report of a review of approval prepared under regulation 29(4);
- (d) any notice given under regulation 29(10);
- (e) any agreement entered into in accordance with regulation 38(1)(a);
- (f) the report prepared under regulation 27(2)(e) and any other reports submitted to the fostering panel; and
- (g) any recommendations made by the fostering panel.

(3) The information referred to in paragraph (1) is, as the case may be—

- (a) a record of each placement with the foster parent, including the name, age and sex of each child placed, the dates on which each placement began and terminated and the circumstances of the termination;
- (b) the information obtained by the fostering service provider in relation to the assessment and approval of the foster parent and in relation to any review or termination of the approval.

(4) A local authority shall maintain a case record for each person with whom a child is placed under regulation 38(2) which shall include in relation to that person—

- (a) the agreement entered into in accordance with regulation 38(2)(b);
- (b) a record in relation to the placement, including the name, age and sex of each child placed, the dates on which the placement began and terminated, and the circumstances of the termination; and
- (c) the information obtained in relation to the enquiries carried out under regulation 38(2).

(5) The fostering service provider shall compile a record for each person whom it does not approve as a foster parent, or who withdraws his application prior to approval, which shall included in relation to him—

- (a) the information obtained in connection with the assessment;

- (b) any report submitted to the fostering panel and any recommendation made by the fostering panel; and
- (c) any notification given under regulation 28.

Register of foster parents

31.—(1) The fostering service provider shall enter, in a register kept for the purpose, the particulars specified in paragraph (2) and in the case of a local authority fostering service, it shall also enter the particulars specified in paragraph (3).

(2) The particulars are—

- (a) the name, address, date of birth and sex of each foster parent;
- (b) the date of his approval and of each review of his approval; and
- (c) the current terms of his approval.

(3) Each local authority shall enter in its register—

- (a) the name and address of each person with whom it has placed a child under regulation 38(2);
- (b) the date of each agreement entered into in accordance with regulation 38(2)(b); and
- (c) the terms of any such agreement for the time being in force.

Retention and confidentiality of records

32.—(1) The records compiled in relation to a foster parent under regulation 30(1), and any entry relating to him in the register maintained under regulation 31(1) shall be retained for at least 10 years from the date on which his approval is terminated.

(2) The records compiled by a local authority under regulation 30(4) in relation to a person with whom a child is placed under regulation 38(2), and any entry relating to such a person in the register maintained under regulation 31(1), shall be retained for at least 10 years from the date on which the placement is terminated.

(3) The records compiled under regulation 30(5) shall be retained for at least 3 years from the refusal or withdrawal, as the case may be, of the application to become a foster parent.

(4) The requirement in paragraphs (1) to (3) may be complied with by retaining the original written records or copies of them, or by keeping all or part of the information contained in them in some other accessible form such as a computer record.

(5) Any records or register maintained in accordance with regulation 30 or 31 shall be kept securely and may not be disclosed to any person except in accordance with—

- (a) any provision of, or made under, or by virtue of, a statute under which access to such records is authorised;
- (b) any court order authorising access to such records.

PART V PLACEMENTS

General duty of responsible authority

33. A responsible authority shall not place a child with a foster parent unless it is satisfied that—

- (a) it is the most suitable way of performing its duty under (as the case may be) section 22(3) or 61(1)(a) and (b) of the 1989 Act; and
- (b) a placement with the particular foster parent is the most suitable placement having regard to all the circumstances.

Making of placements

34.—(1) Except in the case of an emergency or immediate placement under regulation 38, a responsible authority may only place a child with a foster parent if—

- (a) the foster parent is approved—
 - (i) by the responsible authority proposing to make the placement; or
 - (ii) provided the conditions specified in paragraph (2) are satisfied, by another fostering service provider;
 - (b) the terms of his approval are consistent with the proposed placement; and
 - (c) he has entered into a foster care agreement.
- (2) The conditions referred to in paragraph (1)(a)(ii) are—
- (a) that the fostering service provider by whom the foster parent is approved, consents to the placement;
 - (b) that any other responsible authority which already has a child placed with the foster parent, consents to the placement;
 - (c) where applicable, that the area authority is consulted, its views are taken into account, and it is given notice if the placement is made; and
 - (d) where the foster parent is approved by an independent fostering agency, the requirements of regulation 40 are complied with.

(3) Before making a placement, the responsible authority shall enter into a written agreement (in these regulations referred to as the “foster placement agreement”) with the foster parent relating to the child, which covers the matters specified in Schedule 6.

Supervision of placements

35.—(1) A responsible authority shall satisfy itself that the welfare of each child placed by it continues to be suitably provided for by the placement, and for that purpose the authority shall make arrangements for a person authorised by the authority to visit the child, in the home in which he is placed—

- (a) from time to time as circumstances may require;
- (b) when reasonably requested by the child or the foster parent; and
- (c) in any event (subject to regulation 37)—
 - (i) in the first year of the placement, within one week from its beginning and then at intervals of not more than six weeks;
 - (ii) subsequently, at intervals of not more than 3 months.

(2) In the case of an immediate placement under regulation 38, the local authority shall arrange for the child to be visited at least once in each week during the placement.

(3) On each occasion on which the child is visited under this regulation the responsible authority shall ensure that the person it has authorised to carry out the visit—

- (a) sees the child alone unless the child, being of sufficient age and understanding to do so, refuses; and

- (b) prepares a written report of the visit.

Termination of placements

36.—(1) A responsible authority shall not allow the placement of a child with a particular person to continue if it appears to them that the placement is no longer the most suitable way of performing their duty under (as the case may be) section 22(3) or 61(1)(a) and (b) of the Act.

(2) Where it appears to an area authority that the continuation of a placement would be detrimental to the welfare of the child concerned, the area authority shall remove the child forthwith.

(3) An area authority which removes a child under paragraph (2) shall forthwith notify the responsible authority.

Short-term placements

37.—(1) This regulation applies where a responsible authority has arranged to place a child in a series of short-term placements with the same foster parent and the arrangement is such that—

- (a) no single placement is to last for more than four weeks; and
- (b) the total duration of the placements is not to exceed 120 days in any period of 12 months.

(2) A series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of these Regulations, but with the modifications set out in paragraphs (3) and (4).

(3) Regulation 35(1)(c)(i) and (ii) shall apply as if they required arrangements to be made for visits to the child on a day when he is in fact placed (“a placement day”)—

- (a) within the first seven placement days of a series of short-term placements; and
- (b) thereafter, if the series of placements continues, at intervals of not more than six months or, if the interval between placements exceeds six months, during the next placement.

(4) Regulation 41 shall apply as if it required arrangements to be made for visits to the child on a placement day within the first seven placement days of a series of short-term placements.

Emergency and immediate placements by local authorities

38.—(1) Where a child is to be placed in an emergency, a local authority may for a period not exceeding 24 hours place the child with any foster parent approved by the local authority or any other fostering service provider provided that—

- (a) the foster parent has made a written agreement with the local authority to carry out the duties specified in paragraph (3); and
- (b) the local authority are satisfied as to the provisions of regulation 33(a).

(2) Where a local authority are satisfied that the immediate placement of a child is necessary, they may place the child with a person who is not a foster parent after interviewing him, inspecting the accommodation and obtaining information about other persons living in his household, for a period not exceeding six weeks, provided that—

- (a) the person is a relative or friend of the child;
- (b) the person has made a written agreement with the local authority to carry out the duties specified in paragraph (3); and
- (c) the local authority are satisfied as to the provisions of regulation 33(a).

(3) The duties referred to in paragraphs (1)(a) and (2)(b) are—

- (a) to care for the child as if he were a member of that person’s family;

- (b) to permit any person authorised by the local authority or (if applicable) the area authority, to visit the child at any time;
 - (c) where regulation 36 applies, to allow the child to be removed at any time by the local authority or (if applicable) the area authority;
 - (d) to ensure that any information which that person may acquire relating to the child, his family or any other person, which has been given to him in confidence in connection with the placement is kept confidential and is not disclosed except to, or with the agreement of, the local authority; and
 - (e) to allow contact with the child in accordance with the terms of any court order relating to contact or any arrangements made or agreed by the local authority.
- (4) Where a local authority make a placement under this regulation outside their area they shall notify the area authority.

Placements outside England

39.—(1) A voluntary organisation shall not place a child outside the British Islands⁽¹⁶⁾.

(2) Where a responsible authority makes arrangements to place a child outside England it shall ensure, so far as reasonably practicable, that the requirements which would have applied under these Regulations had the child been placed in England, are complied with.

(3) In the case of a placement by a local authority outside England or Wales, paragraph (2) is subject to the provisions of paragraph 19 of Schedule 2 to the 1989 Act (arrangements to assist children to live abroad).

Independent fostering agencies—discharge of local authority functions

40.—(1) A local authority may make arrangements in accordance with this regulation for the duties imposed on it as a responsible authority by regulations 34, 35, 36(1) and 37 and where paragraph (3) applies, 33(b) to be discharged on its behalf by a registered person.

(2) Subject to paragraph (3), no arrangements may be made under this regulation in respect of a particular child, unless a local authority has performed its duties under regulation 33 in relation to that child.

(3) Where a local authority makes arrangements with a registered person for the registered person to provide foster parents for the purposes of a short-term placement within the meaning of regulation 37(1), the local authority may also make arrangements for the registered person to perform the local authority's duty under regulation 33(b) in relation to that placement on its behalf.

(4) No arrangements may be made under this regulation unless a local authority has entered into a written agreement with the registered person which sets out—

- (a) which of its duties the local authority proposes to delegate in accordance with this regulation;
- (b) the services to be provided to the local authority by the registered person;
- (c) the arrangements for the selection by the local authority of particular foster parents from those approved by the registered person;
- (d) a requirement for the registered person to submit reports to the local authority on any placement as may be required by the authority, and in particular following any visit carried out under regulation 35; and
- (e) the arrangements for the termination of the agreement.

⁽¹⁶⁾ “British Islands” are defined in the Interpretation Act 1978 (c. 30) as meaning the United Kingdom, the Channel Islands and the Isle of Man.

(5) Where a local authority proposes to make an arrangement under this regulation in respect of a particular child the local authority shall enter into an agreement with the registered person in respect of that child which sets out—

- (a) details of the particular foster parent with whom the child is to be placed;
- (b) details of any services the child is to receive;
- (c) the terms (including as to payment) of the proposed foster placement agreement;
- (d) the arrangements for record keeping about the child, and for the return of records at the end of the placement;
- (e) a requirement for the registered person to notify the local authority immediately in the event of any concerns about the placement; and
- (f) whether and on what basis other children may be placed with the foster parent.

(6) A foster parent with whom a child is placed in accordance with arrangements made under this regulation is, in relation to that placement, to be treated for the purposes of paragraph 12(d) of Schedule 2 to the 1989 Act as a local authority foster parent.

(7) A local authority shall report to the Commission any concerns it may have about the services provided by a registered person.

(8) In this regulation “registered person” means a person who is the registered person in respect of an independent fostering agency.

PART VI

LOCAL AUTHORITY VISITS

Local authority visits to children placed by voluntary organisations

41.—(1) Every local authority shall arrange for a person authorised by the local authority to visit every child who is placed with a foster parent within their area by a voluntary organisation as follows—

- (a) subject to regulation 37(4), within 28 days of the placement;
- (b) within 14 days of receipt of a request from the voluntary organisation which made the placement to visit a child;
- (c) as soon as reasonably practicable if it is informed that the welfare of the child may not be being safeguarded or promoted; and
- (d) at intervals of not more than six months where the local authority are satisfied, following a visit to a child under this regulation that the child’s welfare is being safeguarded and promoted.

(2) Every local authority shall ensure that a person carrying out a visit in accordance with paragraph (1)—

- (a) sees the child during the course of the visit, or if the child is not there, makes arrangements to see the child as soon as reasonably practicable; and
- (b) takes steps to discover whether the voluntary organisation which placed the child have made suitable arrangements to perform their duties under these Regulations, and those under section 61 of the 1989 Act.

(3) A local authority shall report to the Commission any concerns it may have about the voluntary organisation.

PART VII

FOSTERING AGENCIES—MISCELLANEOUS

Review of quality of care

42.—(1) The registered person shall establish and maintain a system for—

- (a) monitoring the matters set out in Schedule 7 at appropriate intervals; and
- (b) improving the quality of foster care provided by the fostering agency.

(2) The registered person shall supply to the Commission a report in respect of any review conducted by him for the purposes of paragraph (1) and make a copy of the report available upon request to the persons mentioned in regulation 3(2).

(3) The system referred to in paragraph (1) shall provide for consultation with foster parents, children placed with foster parents, and their responsible authority (unless, in the case of a fostering agency which is a voluntary organisation, it is also the responsible authority).

Notifiable events

43.—(1) If, in relation to a fostering agency, any of the events listed in column 1 of the table in Schedule 8 takes place, the registered person shall without delay notify the persons indicated in respect of the event in column 2 of the table.

(2) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing.

Financial position

44.—(1) The registered provider shall carry on the fostering agency in such manner as is likely to ensure that it will be financially viable for the purpose of achieving the aims and objectives set out in its statement of purpose.

(2) The registered provider shall—

- (a) ensure that adequate accounts are maintained and kept up to date in respect of the fostering agency; and
- (b) supply a copy of the accounts, certified by an accountant to the Commission.

(3) The registered provider shall, if the Commission so requests, provide the Commission with such information as it may require for the purpose of considering the financial viability of the fostering agency, including—

- (a) the annual accounts of the fostering agency, certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider's financial standing;
- (c) information as to the financing and financial resources of the fostering agency;
- (d) where the registered provider is a company, information as to any of its associated companies; and
- (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by him in relation to the fostering agency in respect of death, injury, public liability, damage or other loss.

(4) In this regulation one company is associated with another if one of them has control of the other, or both are under the control of the same person.

Notice of absence

45.—(1) Where the registered manager proposes to be absent from the fostering agency for a continuous period of 28 days or more, the registered person shall give notice in writing to the Commission of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the proposed absence is to start, or within such shorter period as may be agreed with the Commission, and the notice shall specify—

- (a) the length or expected length of the proposed absence;
- (b) the reason for the proposed absence;
- (c) the arrangements which have been made for the running of the fostering agency during that absence;
- (d) the name, address and qualifications of the person who will be responsible for the fostering agency during the absence; and
- (e) the arrangements that have been made or are proposed to be made for appointing another person to manage the fostering agency during the absence, including the proposed date by which the appointment is to start.

(3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within one week of its occurrence, specifying the matters mentioned in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where the registered manager has been absent from the fostering agency for a continuous period of 28 days or more, and the Commission has not been given notice of the absence, the registered person shall without delay give notice in writing to the Commission specifying the matters mentioned in paragraph (2).

(5) The registered person shall notify the Commission of the return to duty of the registered manager not later than 7 days after the date of his return.

Notice of changes

46.—(1) The registered person shall give notice in writing to the Commission as soon as it is practicable to do so if any of the following events takes place or is proposed to take place—

- (a) a person other than the registered person carries on or manages the fostering agency;
- (b) a person ceases to carry on or manage the fostering agency;
- (c) where the registered provider is an individual, he changes his name;
- (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (e) where the registered provider is an organisation—
 - (i) the name or address of the organisation is changed;
 - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
 - (iii) there is to be any change in the identity of the responsible individual;
- (f) where the registered provider is an individual, a trustee in bankruptcy is appointed or he makes any composition or arrangement with his creditors; or
- (g) where the registered provider is a company, or a partnership, a receiver, manager, liquidator or provisional liquidator is appointed in respect of the registered provider.

(2) The registered provider shall notify the Commission in writing and without delay of the death of the registered manager.

Appointment of liquidators etc.

- 47.**—(1) Any person to whom paragraph (2) applies shall—
- (a) forthwith notify the Commission of his appointment indicating the reasons for it;
 - (b) appoint a manager to take full-time day to day charge of the fostering agency in any case where there is no registered manager; and
 - (c) not more than 28 days after his appointment notify the Commission of his intentions regarding the future operation of the fostering agency.
- (2) This paragraph applies to any person appointed as—
- (a) the receiver or manager of the property of a company or partnership which is a registered provider of a fostering agency;
 - (b) a liquidator or provisional liquidator of a company which is the registered provider of a fostering agency; or
 - (c) the trustee in bankruptcy of a registered provider of a fostering agency.

Offences

48.—(1) A contravention or failure to comply with any of the provisions of regulations 3 to 23 and 42 to 46 shall be an offence.

(2) The Commission shall not bring proceedings against a person in respect of any contravention or failure to comply with those regulations unless—

- (a) subject to paragraph 4, he is a registered person;
- (b) notice has been given to him in accordance with paragraph (3);
- (c) the period specified in the notice has expired;
- (d) the registered person contravenes or fails to comply with any of the provisions of the regulations mentioned in the notice.

(3) Where the Commission considers that the registered person has contravened or failed to comply with any of the provisions of the regulations mentioned in paragraph (1), it may serve a notice on the registered person specifying—

- (a) in what respect in its opinion the registered person has contravened or is contravening any of the regulations, or has failed or is failing to comply with the requirements of any of the regulations;
- (b) what action, in the opinion of the Commission, the registered person should take so as to comply with any of those regulations; and
- (c) the period, not exceeding three months, within which the registered person should take action.

(4) The Commission may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 22 or 32, and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

Compliance with regulations

49. Where there is more than one registered person in respect of a fostering agency, anything which is required under these Regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

PART VIII

MISCELLANEOUS

Transitional provisions

50.—(1) This paragraph applies to a fostering agency falling within section 4(4)(b) of the 2000 Act (a voluntary organisation which places children with foster parents under section 59(1) of the 1989 Act) which has, before the coming into force of these Regulations duly made an application for registration under Part II of the 2000 Act.

(2) These Regulations shall apply to a fostering agency to which paragraph (1) applies, as if any reference in them to a registered person is a reference to the person who carries on the agency⁽¹⁷⁾—

- (a) until such time as the application for registration is granted, either unconditionally or subject only to conditions which have been agreed in writing between that person and the Commission; or
- (b) if the application is granted subject to conditions which have not been so agreed, or it is refused—
 - (i) if no appeal is brought, until the expiration of the period of 28 days after service on that person of notice of the Commission’s decision; or
 - (ii) if an appeal is brought, until it is determined or abandoned.

(3) This paragraph applies to an independent fostering agency which is carried on by a voluntary organisation, which has, before the coming into force of these Regulations, duly made an application for registration under Part II of the 2000 Act.

(4) Where a local authority looking after a child is satisfied that the child should be placed with foster parents, they may make arrangements, subject to paragraph (5), for the duties imposed on them by regulations 34, 35, 36(1) and 37 to be discharged on their behalf by the voluntary organisation to which paragraph (3) applies (“an unregistered independent voluntary provider”)—

- (a) until such time as the application for registration is granted, either unconditionally or subject only to conditions which have been agreed in writing between that provider and the Commission; or
 - (b) if the application is granted subject to conditions which have not been so agreed, or it is refused—
 - (i) if no appeal is brought, until the expiration of the period of 28 days after service on that provider of notice of the Commission’s decision; or
 - (ii) if an appeal is brought, until it is determined or abandoned.
- (5) A local authority may not make arrangements under paragraph (4) unless they—
- (a) are satisfied—
 - (i) as to the capacity of the unregistered independent voluntary provider to discharge duties on their behalf; and
 - (ii) that those arrangements are the most suitable way for those duties to be discharged; and
 - (b) enter into a written agreement with the unregistered independent voluntary provider about the arrangements, providing for consultation and exchange of information and reports between the local authority and the unregistered independent voluntary agency.

(17) See Section 121(4) of the Care Standards Act 2000.

(6) Paragraphs (2) and (4) are subject to the provisions of Article 2 of, and sub-paragraphs (5) and (6) of paragraph 15 of Schedule 1 to, the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional Provisions) Order 2001 (application by the Commission to a justice of the peace)(**18**).

(7) Regulation 20(6) shall not apply to any person to whom it would, apart from this regulation apply, if he is on 1st April 2002 already employed by a fostering service provider in a position to which paragraph (7) of that regulation applies.

Revocation

51. The following Regulations are revoked—

- (a) the Foster Placement (Children) Regulations 1991(**19**);
- (b) regulation 2 of the Children (Short-term Placements) (Miscellaneous Amendments) Regulations 1995(**20**);
- (c) regulation 3 of the Children (Protection from Offenders) (Miscellaneous Amendments) Regulations 1997(**21**);
- (d) regulation 2 of the Children (Protection from Offenders) (Amendment) Regulations 1999(**22**) so far as it amends the Foster Placement (Children) Regulations 1991; and
- (e) regulation 2 of the Foster Placement (Children) and Adoption Agencies Amendment (England) Regulations 2001(**23**).

Signed by authority of the Secretary of State for Health

14th January 2002

Jacqui Smith
Minister of State,
Department of Health

(18) S.I. 2001/3852 (c. 125).
(19) S.I. 1991/910.
(20) S.I. 1995/2015.
(21) S.I. 1997/2308.
(22) S.I. 1999/2768.
(23) S.I. 2001/2992.