
STATUTORY INSTRUMENTS

2013 No. 3239

**The Children's Homes and Looked after Children
(Miscellaneous Amendments) (England) Regulations 2013**

PART 2

Children's Homes

Amendments to the Children's Homes Regulations 2001

2. The Children's Homes Regulations 2001(1) are amended as follows.

3. In regulation 2, insert where appropriate—

““care plan” has the meaning given to it in the Care Planning, Placement and Case Review (England) Regulations 2010;”;

““care role” means working in a position which consists mainly or solely of providing care for children;”;

““independent person” means a person appointed by the registered provider in accordance with regulation 33;”;

““missing child policy” means a written policy setting out—

- (a) the steps taken in relation to the children's home to prevent children accommodated there from being absent without permission; and
- (b) the procedures to be followed, and the roles and responsibilities of persons working at the children's home, in relation to a child who is, or has been, so absent;”;

““required care role qualification” means—

- (a) the Level 3 Diploma for the Children and Young People's Workforce in the children's social care pathway (“the Level 3 Diploma”); or
- (b) a qualification which the registered person considers to be equivalent to the Level 3 Diploma;”;

““required manager's qualification” means—

- (a) the Level 5 Diploma in Leadership for Health and Social Care and Children and Young People's Services in the children and young people's residential management pathway (“the Level 5 Diploma”); or
- (b) a qualification which the registered provider considers to be equivalent to the Level 5 Diploma;”;

““social services functions” has the meaning given by section 1A of the Local Authority Social Services Act 1970;”;

(1) S.I. 2001/3967, which was amended by S.I. 2002/865, 2004/865, 2004/1016, 2004/3168, 2005/1541, 2006/484, 2006/1738, 2009/1895, 2010/234, 2010/1172, 2011/583, 2012/979, 2012/2404, 2013/235, 2013/706 and 2013/1394.

““special educational needs” has the meaning given by section 312 of the Education Act 1996;” and

““statement of special educational needs” means a statement of special educational needs maintained in relation to the child under section 324 of the Education Act 1996”.

4. In regulation 4, after paragraph (2) insert—

“(2A) Where a children’s home has a website, the registered person shall ensure that a copy of the statement of purpose is published on that website unless the registered person considers that such publication would prejudice the welfare of children cared for in the children’s home.”.

5. In regulation 8, after paragraph (2) insert—

“(3) For the purposes of sub-paragraph (2)(b)(i), a person does not have the qualifications, skills and experience necessary to manage the children’s home unless he has—

- (a) subject to paragraph (4), attained the required manager’s qualification;
- (b) within the last 5 years, worked for at least 2 years in a position relevant to the residential care of children; and
- (c) worked for at least one year in a role requiring the supervision and management of staff working in a care role.

(4) Where a person manages a children’s home, that person must attain or hold the required manager’s qualification by—

- (a) the date which falls three years after the date on which that person started managing the children’s home, in the case of a person who starts managing the children’s home after 1st April 2014; or
- (b) 1st April 2017, in the case of a person managing the children’s home on 1st April 2014.

(5) The registered provider may extend a time limit in paragraph (4) if the person managing the children’s home does not work in that capacity for a prolonged period.”.

6. In regulation 11(1)—

- (a) in sub-paragraph (a), after “the” insert “safeguarding and”;
- (b) in sub-paragraph (b), after “supervision” insert “, support”.

7. After regulation 12A(2) insert—

“Notifications with respect to children admitted into, or discharged from, the children’s home

12B.—(1) The registered person must notify, in writing, the local authority for the area in which the children’s home is located without delay of—

- (a) the admission of a child into; and
- (b) the discharge of a child from,

the children’s home.

(2) The registered person is not required to notify a local authority pursuant to paragraph (1) if that local authority is also the placing authority for the child in question.

(3) A notification under paragraph (1) must state—

- (a) the child's name and date of birth;
- (b) whether the child is—
 - (i) provided with accommodation under section 20 or 21 of the 1989 Act;
 - (ii) subject to a care or supervision order under section 31 of the 1989 Act;
- (c) the contact details for—
 - (i) the child's placing authority; and
 - (ii) the independent reviewing officer appointed for the child's case under section 25A(1) of the 1989 Act⁽³⁾; and
- (d) whether the child has a statement of special educational needs and, if so, details of the local authority that maintains the statement.”.

8. In regulation 16—

- (a) for paragraph (4)(b) substitute—
 - “(b) a missing child policy.”;
- (b) after paragraph (4), insert—
 - “(5) Before implementing, or making an amendment which the registered person considers to be substantive to, the missing child policy, the registered person shall—
 - (i) consult, and take into account the views of, such local persons or bodies as the registered person considers appropriate; and
 - (ii) have regard to any relevant local authority or police protocols on missing children.
 - (6) Where the registered person considers that a child who is accommodated in the children's home and for whom a care plan has been prepared—
 - (a) is, or has been, persistently absent without permission from the children's home; or
 - (b) is at risk of harm,the registered person shall ask the local authority that looks after that child to review that child's care plan.”.

9. In regulation 26, after paragraph (3) insert—

- “(4) Where a person works in the children's home in a care role, that person must attain or hold the required care role qualification by—
 - (a) the date which falls two years after the date on which that person started work in that position, in the case of a person who starts working in a care role in the children's home after 1st April 2014; or
 - (b) 1st April 2016, in the case of a person working in a care role in the children's home on 1st April 2014.
- (4A) The registered person may extend a time limit in paragraph (4) where the person working in the care role does not work in that capacity for a prolonged period.”.

10. In regulation 31—

- (a) in paragraph (1), omit “in a location, and”;
- (b) after paragraph (1) insert—
 - “(1A) The registered person shall—

(3) Section 25A of the 1989 Act was inserted by section 10(1) of the 2008 Act.

- (a) ensure that premises used for the purposes of a children’s home are appropriately and suitably located, so that children cared for by the children’s home are effectively safeguarded and are able to access services to meet needs identified in their care plans or placement plans; and
- (b) for the purposes of sub-paragraph (a), review the appropriateness and suitability of the location of those premises at least once in each calendar year.

(1B) When conducting a review for the purposes of paragraph (1A)(b), the registered person shall consult, and take into account the views of, such local bodies or persons as the registered person considers appropriate.”

11. For regulation 33 substitute—

“Visits by independent person

33.—(1) Subject to paragraph (2), the registered provider shall appoint, at the registered provider’s expense, an independent person to visit and report on the children’s home in accordance with this regulation.

(2) The following persons are disqualified from appointment as an independent person—

- (a) subject to paragraph (3), a person who is employed for payment by the registered provider;
- (b) a person who is employed by a registered provider that is a local authority, where the person is employed in connection with the carrying on of social services functions relating to children;
- (c) a person involved in preparing the care plan of any child placed at the children’s home, or a person responsible for managing or supervising that person;
- (d) a person responsible for commissioning or financing services provided by the children’s home;
- (e) a person with a financial interest in the children’s home;
- (f) the responsible individual, if nominated;
- (g) a person who has, or has had, a connection with—
 - (i) the registered person;
 - (ii) a person working at the children’s home; or
 - (iii) a child accommodated at the children’s home,

which the registered provider considers to give rise to doubts about that person’s impartiality for the purposes of producing the independent person’s report.

(3) An employee of the registered provider is not, by reason only of that employment, disqualified under sub-paragraph (2)(a) or (g) from appointment as the independent person where he is engaged pursuant to a contract of service or a contract for services which provides that he is to critically examine and scrutinise—

- (a) the way that the children’s home is carried on or managed; and
- (b) the quality of care that the children’s home provides for children accommodated there.

(4) The registered provider shall require the independent person to declare any actual or potential conflict of interest, whether pursuant to paragraph (2) or otherwise, to the registered provider without delay and, if practicable, before conducting a visit to the children’s home.

(5) Where the registered provider becomes aware of a potential conflict of interest in relation to the independent person before or during that person’s visit to the children’s home, the registered provider shall—

- (a) make arrangements to cancel the visit without delay; and
- (b) appoint a different independent person to visit the children’s home.

(6) Where the independent person becomes aware of a potential conflict of interest after a visit to the children’s home, the independent person must include in the report pursuant to paragraph (9)—

- (a) details of the conflict of interest; and
- (b) the reasons why he did not notify the registered provider of the conflict of interest before the visit.

(7) Visits by the independent person under paragraph (1) shall take place at least once a month and may be unannounced.

(8) The independent person, when carrying out a visit, shall—

- (a) interview, with their consent and in private, such of the children accommodated there, their parents, relatives and persons working at the children’s home as appears necessary in order to form an opinion as to whether—
 - (i) children accommodated at the children’s home are effectively safeguarded; and
 - (ii) the conduct of the children’s home promotes the wellbeing of the children accommodated there;
- (b) inspect the premises of the children’s home, and such of the children’s home’s records, as the independent person requires (save for a child’s case records, unless the child and the child’s placing authority consent to the inspection of those records by the independent person).

(9) The independent person shall produce a written report about a visit (referred to in this regulation as “the independent person’s report”) and provide a copy of the report to—

- (a) HMCI;
- (b) upon request, the local authority for the area in which the home is located;
- (c) the placing authorities of children accommodated in the children’s home;
- (d) the registered provider and, if applicable, the registered manager; and
- (e) the responsible individual, if nominated.

(10) The independent person’s report may recommend actions that the registered person may take in relation to the children’s home and timescales within which the registered person must consider whether or not to take those actions.”.

12. In regulation 34(1)(a), for “appropriate intervals” substitute “least once in every 3 months”.

13. For Schedule 1, substitute—

“SCHEDULE 1

Regulation 4(1)

Matters to be included in the Statement of Purpose

Caring for children

1. A statement of the range of needs of the children for whom it is intended that the children’s home is to provide care.

2. Details of the children's home's ethos, and the outcomes that the children's home seeks to achieve and its approach to achieving them.
3. The arrangements for enabling children to enjoy and achieve, including how the children's home promotes their participation in cultural, recreational and sporting activities.
4. The arrangements for supporting the cultural, linguistic and religious needs of children accommodated in the children's home.
5. The arrangements for promoting contact between children and their family and friends.
6. A description of the children's home's approach to consulting children about the quality of their care.
7. A description of the children's home's policy and approach in relation to—
 - (a) anti-discriminatory practice in respect of children and their families; and
 - (b) children's rights.
8. A description of the accommodation offered by the children's home, including—
 - (a) how accommodation has been adapted to the needs of children cared for by the children's home;
 - (b) the age range, number and sex of children for whom it is intended that accommodation is to be provided;
 - (c) the type of accommodation, including sleeping accommodation.
9. A description of the location of the children's home.
10. Details of the children's home's policies for safeguarding children, preventing bullying and the missing child policy.
11. Any criteria used for the admission of children to the children's home, including any policies and procedures for emergency admission.
12. The arrangements for dealing with complaints.

Children's behaviour

13. A description of the children's home's approach to the surveillance and monitoring of children accommodated there.
14. Details of the children's home's approach to behavioural support, including information about—
 - (a) the children's home's approach to the use of restraint with respect to children accommodated there;
 - (b) how persons working in the children's home are trained in the use of restraint and how their competence is assessed.

Contact details

15. The name and work address of—
 - (a) the registered provider (including details of the company owning the children's home);
 - (b) if nominated, the responsible individual;
 - (c) if applicable, the registered manager.

Education

16. Details of provision to support children with special educational needs.

17. Where the children's home is dually registered as a school, details of the curriculum provided by the children's home and the management and structure of the arrangements for education.

18. Where the children's home is not dually registered as a school, the arrangements for children to attend local schools and the provision made by the children's home to promote the educational attainment of children.

Health

19. Details of any health care or therapy provided, including—

(a) details of the qualifications and clinical supervision of the staff involved;

(b) information about—

(i) how the children's home measures the effectiveness of its approach; and

(ii) the evidence referred to by the children's home to demonstrate the effectiveness of its approach,

and how this information can be accessed.

Staffing matters

20. Details of the experience and qualifications of staff working at the children's home, including any staff commissioned to provide education and health care.

21. Details of the management and staffing structure of the children's home, including arrangements for the professional supervision of staff employed at the children's home, including staff that provide education or health care.

22. If the staff working at the children's home are all of one sex, or mainly of one sex, a description of how the children's home promotes appropriate role models of both sexes.”.

14. In Schedule 3, in paragraph 12 omit “under section 324 of the Education Act 1996”.

15. In Schedule 5—

(a) in column 1—

(i) for “Referral to the Secretary of State pursuant to section 2(1)(a) of the Protection of Children Act 1999” substitute “Referral pursuant to section 35 of the Safeguarding Vulnerable Groups Act 2006”;

(ii) for “prostitution” substitute “sexual exploitation”;

(b) in column 2, after “Local authority” insert “for the area in which the children's home is located, if different from the placing authority”.

16. For Schedule 6, substitute—

“SCHEDULE 6

Regulation 34(1)

Matters to be monitored and reported on by the registered person

Caring for children

1. Any safeguarding concerns or incidents in respect of a child accommodated at the children’s home and the measures taken by the persons working at the children’s home to respond effectively to these to ensure the safeguarding and welfare of the child.
2. The arrangements for children coming to and leaving the children’s home.
3. The arrangements for monitoring the quality of care provided by the children’s home’s, including the actions taken in response to recommendations made by the independent person or, as the case may be, the reasons why the registered person did not consider it appropriate or necessary to take any such actions.
4. In respect of each child accommodated in the children’s home, compliance with the placing authority’s care plans and placement plans.
5. The arrangements for—
 - (a) consulting children about the quality of the children’s home’s care and for acting on the results of such consultation;
 - (b) involving children in decisions about—
 - (i) their own care; and
 - (ii) the day to day running of the children’s home.
6. Complaints in relation to the children’s home or children accommodated in it, including any actions taken in response to such complaints and how complaints were resolved.
7. Notifications of the events listed in Schedule 5.

Education

8. Where the children’s home is dually registered as a school, the effectiveness of the children’s home’s arrangements for education, including the educational outcomes of children accommodated at the children’s home.
9. Where the children’s home is not dually registered as a school, the effectiveness of the children’s home in promoting the educational attainment of children in its care and the quality of relationships between the children’s home and local schools.

Encouraging positive behaviour

10. The arrangements for promoting and supporting the positive behaviour of children accommodated in the children’s home.
11. The effectiveness of the children’s home’s approach to behavioural support, including arrangements for commissioning training for staff in behaviour management and restraint.
12. The number of times that children accommodated at the children’s home are restrained and the steps taken by the children’s home to minimise the use of restraint.
13. Whether there have been any occasions when children accommodated in the children’s home have been charged with a criminal offence.

Health

14. The arrangements, if any, for commissioning therapeutic services appropriate to the needs of children accommodated by the children's home and the effectiveness of any such arrangements in achieving health outcomes for the children accommodated by the children's home.

15. The arrangements for children to be provided with general medical practitioner and other primary health care services, including access to preventive and screening services in the local community.

16. Details of children requiring accident and emergency treatment and other hospital services.

17. Illnesses of children accommodated in the children's home.

Health and safety

18. Risk assessments for health and safety purposes and subsequent action taken.

19. Fire drills and tests of alarms and of fire equipment.

Missing children

20. The number of reports of children accommodated at the children's home being absent without permission.

21. The measures taken by staff—

(a) to prevent children from being absent from the children's home without permission; and

(b) in response to a child being absent without permission from the children's home.

22. The effectiveness of arrangements agreed between the children's home, local police and the local authority for responding to missing person incidents in relation to children accommodated at the children's home.

Staffing matters

23. The arrangements for the management and supervision of staff working at the children's home, including duty rosters and staff deployment in relation to incidents at the children's home.

24. The arrangements for continuing professional development, recruitment and training of staff working at the children's home.

25. Details of—

(a) disciplinary action concerning persons working at the children's home;

(b) staff grievances.

26. The reasons for staff ceasing employment at the children's home.

Working with local services

27. The arrangements for consultation with placing authorities, the local authority in whose area the children's home is located and other community services used by children accommodated at the children's home.

28. The effectiveness of the children's home's guidance and procedures concerning police involvement in the children's home.".