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WELSH STATUTORY INSTRUMENTS

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**2003 No. 237**

**The Fostering Services (Wales) Regulations 2003**

**PART III**

**CONDUCT OF FOSTERING SERVICE**

**Independent fostering agency — duty to secure welfare**

- 11.** The registered person in respect of an independent fostering agency<sup>(1)</sup> must 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 the child's age and understanding; and
    - (ii) the child's religious persuasion, racial origin and cultural and linguistic background.

**Arrangements for the protection of children**

- 12.**—(1) The fostering service provider must 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) must, 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 appropriate office of the National Assembly;
  - (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 in each case 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—

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(1) 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.

- (i) the area authority; and
  - (ii) the appropriate office of the National Assembly,
- 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 must 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 must 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 must 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 must, 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 the child’s 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 must promote the health and development of children placed with foster parents.

- (2) In particular the fostering service provider must 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 services as he or she may require; and
  - (c) each child is provided with such individual support, aids and equipment which he or she may require as a result of any particular health needs or disability he or she may have; and
  - (d) each child is provided with guidance, support and advice on health, personal care and health promotion issues appropriate to his or her needs and wishes.

### **Education, employment and leisure activities**

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

- (2) In particular the fostering service provider must—

- (a) establish a procedure for monitoring the educational attainment, progress and school attendance of children placed with foster parents;
- (b) in relation to school aged children placed with foster parents, promote their regular attendance at school and participation in school activities;
- (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 must 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 or she may have.

(4) The fostering service provider must 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 or she is no longer required to receive compulsory full-time education, the fostering service provider must assist with the making of, and give effect to, the arrangements made for the child in respect of his or her education, training and employment.

### **Support, training and information for foster parents**

17.—(1) The fostering service provider must 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 must 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 must ensure that, in relation to any child placed or to be placed with a foster parent, the foster parent is given such information, which is kept up to date, as to enable the foster parent 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 the foster parent; 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(2) must 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 must, 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;

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(2) 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).

- (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 must be supplied on request to any of the persons mentioned in paragraph (2)(e).
- (4) The copy of the procedure supplied under paragraph (3) must include—
  - (a) the name, address and telephone number of the appropriate office of the National Assembly; and
  - (b) details of the procedure (if any) which has been notified to the registered person by the National Assembly for the making of complaints to it relating to independent fostering agencies.
- (5) The registered person must 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 must 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 must supply to the appropriate office of the National Assembly 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(3) applies.

### **Staffing of fostering service**

- 19.** The fostering service provider must 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
  - (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 must 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 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 or she may in the course of his or her 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 a fostering service unless—

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

- (a) the person is of integrity and good character;
  - (b) the person has the qualifications and experience necessary for the work he or she is to perform;
  - (c) the person is physically and mentally fit for the work he or she is to perform; and
  - (d) full and satisfactory information is available in relation to the person in respect of each matter specified in Schedule 1.
- (4) The fostering service provider must take reasonable steps to ensure that any person working for a fostering service who is not employed by the fostering service provider and to whom paragraph (2) does not apply is appropriately supervised while carrying out his or her duties.
- (5) Subject to regulation 52(7), the fostering service provider must not employ to work for the purposes of the fostering service in a position to which paragraph (6) 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.
- (6) 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 must—
- (a) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and
  - (b) provide all employees with a job description outlining their responsibilities.
- (2) The fostering service provider must 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 National Assembly;
    - (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 must ensure that all persons employed by him or her—
- (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 must maintain and keep up to date the records specified in Schedule 2.

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

### **Fitness of premises**

**23.**—(1) The fostering service must 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 must ensure—

- (a) that there are adequate security arrangements at the premises, in particular that there are secure facilities at the premises for the storage of records, and
- (b) that any records which are stored away from the premises are kept in conditions of appropriate security.