
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 210

The Looked After Children (Scotland) Regulations 2009

PART X

EMERGENCY MEASURES

Emergency placement with carer

36.—(1) Subject to paragraph (4) where a child who is looked after by a local authority in terms of section 17(6) of the 1995 Act is to be placed in an emergency that authority may, for a period not exceeding 3 working days, place the child with—

- (a) any person approved as a kinship carer in respect of that child;
- (b) any person approved as a foster carer; or
- (c) any person who is known to the child and who has a pre-existing relationship with the child.

(2) A local authority may not place a child under paragraph (1) unless—

- (a) they are satisfied that an emergency placement is the most suitable way of meeting the child's needs; and
- (b) the person with whom the child is to be placed has signed a written agreement with the local authority to carry out the duties in paragraph (3).

(3) The duties are—

- (a) to care for the child as if that child were a member of that person's family and in a safe and appropriate manner;
- (b) to allow any person authorised by the local authority to visit the child at any reasonable time;
- (c) where the placement is terminated to allow the child to be removed at any time by the local authority;
- (d) to ensure that any information which the person may acquire relating to the child or to their family or any other person which has been given 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—
 - (i) section 17(1)(c) of the 1995 Act;
 - (ii) the terms of any contact order; and
 - (iii) any arrangements made or agreed by the local authority.

(4) A child may not be placed under paragraph (1) where—

- (a) the placement is or would be contrary to the terms of any supervision requirement made or any order made or authorisation or warrant granted under chapter 2, 3 or 4 of Part II of the 1995 Act or any permanence order in respect of the child; or

(b) the placement would return the child to the care of a person where the child was, by virtue of any order, authorisation or warrant, removed from the care of that person.

(5) Where a local authority place a child under paragraph (1) they must provide the person with whom the child is placed with information about the child's background, health and emotional development.

Emergency placement in residential establishment

37.—(1) Where a child who is looked after by a local authority in terms of section 17(6) of the 1995 Act is to be placed in an emergency that authority may place the child in a residential establishment for a period not exceeding 3 working days.

(2) A local authority may not place a child under paragraph (1) unless—

- (a) they are satisfied that an emergency placement in a residential establishment is the most suitable way of meeting the child's needs; and
- (b) they have given full consideration to the possibility of placing the child with a carer in accordance with regulation 36.

Review of emergency placement under regulation 36

38.—(1) This regulation applies where a child is placed in an emergency under regulation 36.

(2) Within 3 working days of the child being placed the local authority must review the child's case to determine whether placement continues to be in the best interests of the child by complying with the requirements in paragraph (3).

(3) The requirements are—

(a) to consult—

- (i) the child, taking into account their age and maturity;
- (ii) the person with whom the child has been placed;
- (iii) any parent of the child; and
- (iv) any person with parental responsibilities or parental rights in respect of the child;

(b) to assess—

- (i) whether placement is in the best interests of the child;
- (ii) whether placement of the child with that carer is in the best interests of the child;
- (iii) whether that carer has been approved as a kinship carer or as a foster carer;
- (iv) all the information available to them relevant to the performance of their duties under section 17(1) to (5) of the 1995 Act; and
- (v) where the child has not been placed with a member of their family, the possibility of placing the child with a kinship carer.

(4) Where the local authority are satisfied that, following a review of the emergency placement, placement with that carer continues to be in the best interests of the child the local authority must carry out the requirements in regulations 3, 4 and 5 in so far as they have not already done so.

Extension of emergency placement

39.—(1) Where—

- (a) a child has been placed in an emergency under regulation 36; and

- (b) following a review of that placement carried out in accordance with regulation 38 the local authority are satisfied that placement with that carer continues to be in the best interests of the child,

the local authority may allow the placement to continue for a further period not exceeding 12 weeks beginning with the expiry of the period mentioned in regulation 36(1).

(2) The local authority must not allow the child to remain in the extended placement beyond the 12 week period referred to in paragraph (1) unless—

- (a) in the case of a child placed under regulation 36(1)(a) the requirements specified in regulation 11 are met;
- (b) in the case of a child placed under regulation 36(1)(b) the requirements specified in regulation 27 are met; or
- (c) in the case of a child placed under regulation 36(1)(c) the authority—
 - (i) are satisfied that placement with that carer is in the best interests of the child;
 - (ii) have approved the carer as a kinship carer; and
 - (iii) are satisfied that the requirements specified in regulation 11 are met.

(3) Before the expiry of 6 weeks beginning with the expiry of the period mentioned in regulation 36(1) the authority must carry out a review of the child’s case by complying with the requirements in regulation 38(3).

Notification of an extended emergency placement

40.—(1) Where a local authority allow an emergency placement to continue for a further period in accordance with regulation 39 they must, as soon as reasonably practicable, provide notification of the placement to—

- (a) the local authority for the area in which the carer resides if different from the authority making the placement;
- (b) the Health Board which provides services in the area in which the carer resides;
- (c) each parent of the child; and
- (d) any person with any parental responsibilities or parental rights in relation to the child.

(2) Notification under paragraph (1)(c) or (d) must not be given to a person—

- (a) where the local authority are of the view that, taking into account their duties under section 17 of the 1995 Act, it would not be in the child’s interests for notification to be given to that particular person;
- (b) where a permanence order, a supervision requirement or an order or warrant granted under Part II of the 1995 Act specifies that the place at which the child is to reside must not be disclosed to that particular person.

(3) In this regulation “notification” means notification in writing and shall include particulars of the placement.

Review of emergency placement under regulation 37

41.—(1) This regulation applies where a child is placed in an emergency in a residential establishment under regulation 37.

(2) Within 3 working days the local authority must review the child’s case to determine whether placement in that residential establishment continues to be in the best interests of the child by complying with the requirements in paragraph (3).

(3) The requirements are—

- (a) to consult–
 - (i) the child, taking into account their age and maturity;
 - (ii) the manager of the residential establishment;
 - (iii) any parent of the child; and
 - (iv) any person with parental responsibilities or parental rights in respect of the child;
- (b) to assess–
 - (i) whether placement is in the best interests of the child;
 - (ii) whether placement of the child in a residential establishment is in the best interests of the child;
 - (iii) all the information available to them relevant to the performance of their duties under section 17(1) to (5) of the 1995 Act; and
 - (iv) the possibility of placing the child with a kinship carer under regulation 11 or a foster carer under regulation 27.

(4) Where the local authority are satisfied that, following a review of the emergency placement in a residential establishment, placement in that establishment continues to be in the best interests of the child the local authority must carry out the requirements in regulations 3, 4, 5, 34 and 35 in so far as they have not already done so.