
STATUTORY INSTRUMENTS

2002 No. 57

The Fostering Services Regulations 2002

PART III

CONDUCT OF FOSTERING SERVICES

Independent fostering agencies—duty to secure welfare

- 11.** The registered person in respect of an independent fostering agency⁽¹⁾ 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.

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

⁽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.

(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⁽²⁾ 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;

(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).

(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⁽³⁾ 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
- (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

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

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

- (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.