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STATUTORY INSTRUMENTS

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**2002 No. 57**

**The Fostering Services Regulations 2002**

**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<sup>(1)</sup> in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)<sup>(2)</sup> 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<sup>(3)</sup> 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)<sup>(4)</sup> 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—

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(1) 1979 c. 2.  
(2) 1876 c. 36.  
(3) 2000 c. 43.  
(4) 1956 c. 69.

- (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
  - (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.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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