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STATUTORY INSTRUMENTS

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**2002 No. 57**

**The Fostering Services Regulations 2002**

**PART V**

**PLACEMENTS**

**General duty of responsible authority**

- 33.** A responsible authority shall not place a child with a foster parent unless it is satisfied that—
- (a) it is the most suitable way of performing its duty under (as the case may be) section 22(3) or 61(1)(a) and (b) of the 1989 Act; and
  - (b) a placement with the particular foster parent is the most suitable placement having regard to all the circumstances.

**Making of placements**

**34.—(1)** Except in the case of an emergency or immediate placement under regulation 38, a responsible authority may only place a child with a foster parent if—

- (a) the foster parent is approved—
    - (i) by the responsible authority proposing to make the placement; or
    - (ii) provided the conditions specified in paragraph (2) are satisfied, by another fostering service provider;
  - (b) the terms of his approval are consistent with the proposed placement; and
  - (c) he has entered into a foster care agreement.
- (2) The conditions referred to in paragraph (1)(a)(ii) are—
- (a) that the fostering service provider by whom the foster parent is approved, consents to the placement;
  - (b) that any other responsible authority which already has a child placed with the foster parent, consents to the placement;
  - (c) where applicable, that the area authority is consulted, its views are taken into account, and it is given notice if the placement is made; and
  - (d) where the foster parent is approved by an independent fostering agency, the requirements of regulation 40 are complied with.

(3) Before making a placement, the responsible authority shall enter into a written agreement (in these regulations referred to as the “foster placement agreement”) with the foster parent relating to the child, which covers the matters specified in Schedule 6.

**Supervision of placements**

**35.—(1)** A responsible authority shall satisfy itself that the welfare of each child placed by it continues to be suitably provided for by the placement, and for that purpose the authority shall make

arrangements for a person authorised by the authority to visit the child, in the home in which he is placed—

- (a) from time to time as circumstances may require;
- (b) when reasonably requested by the child or the foster parent; and
- (c) in any event (subject to regulation 37)—
  - (i) in the first year of the placement, within one week from its beginning and then at intervals of not more than six weeks;
  - (ii) subsequently, at intervals of not more than 3 months.

(2) In the case of an immediate placement under regulation 38, the local authority shall arrange for the child to be visited at least once in each week during the placement.

(3) On each occasion on which the child is visited under this regulation the responsible authority shall ensure that the person it has authorised to carry out the visit—

- (a) sees the child alone unless the child, being of sufficient age and understanding to do so, refuses; and
- (b) prepares a written report of the visit.

### **Termination of placements**

**36.**—(1) A responsible authority shall not allow the placement of a child with a particular person to continue if it appears to them that the placement is no longer the most suitable way of performing their duty under (as the case may be) section 22(3) or 61(1)(a) and (b) of the Act.

(2) Where it appears to an area authority that the continuation of a placement would be detrimental to the welfare of the child concerned, the area authority shall remove the child forthwith.

(3) An area authority which removes a child under paragraph (2) shall forthwith notify the responsible authority.

### **Short-term placements**

**37.**—(1) This regulation applies where a responsible authority has arranged to place a child in a series of short-term placements with the same foster parent and the arrangement is such that—

- (a) no single placement is to last for more than four weeks; and
- (b) the total duration of the placements is not to exceed 120 days in any period of 12 months.

(2) A series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of these Regulations, but with the modifications set out in paragraphs (3) and (4).

(3) Regulation 35(1)(c)(i) and (ii) shall apply as if they required arrangements to be made for visits to the child on a day when he is in fact placed (“a placement day”)—

- (a) within the first seven placement days of a series of short-term placements; and
- (b) thereafter, if the series of placements continues, at intervals of not more than six months or, if the interval between placements exceeds six months, during the next placement.

(4) Regulation 41 shall apply as if it required arrangements to be made for visits to the child on a placement day within the first seven placement days of a series of short-term placements.

### **Emergency and immediate placements by local authorities**

**38.**—(1) Where a child is to be placed in an emergency, a local authority may for a period not exceeding 24 hours place the child with any foster parent approved by the local authority or any other fostering service provider provided that—

- (a) the foster parent has made a written agreement with the local authority to carry out the duties specified in paragraph (3); and
- (b) the local authority are satisfied as to the provisions of regulation 33(a).

(2) Where a local authority are satisfied that the immediate placement of a child is necessary, they may place the child with a person who is not a foster parent after interviewing him, inspecting the accommodation and obtaining information about other persons living in his household, for a period not exceeding six weeks, provided that—

- (a) the person is a relative or friend of the child;
- (b) the person has made a written agreement with the local authority to carry out the duties specified in paragraph (3); and
- (c) the local authority are satisfied as to the provisions of regulation 33(a).

(3) The duties referred to in paragraphs (1)(a) and (2)(b) are—

- (a) to care for the child as if he were a member of that person's family;
- (b) to permit any person authorised by the local authority or (if applicable) the area authority, to visit the child at any time;
- (c) where regulation 36 applies, to allow the child to be removed at any time by the local authority or (if applicable) the area authority;
- (d) to ensure that any information which that person may acquire relating to the child, his family or any other person, which has been given to him 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 the terms of any court order relating to contact or any arrangements made or agreed by the local authority.

(4) Where a local authority make a placement under this regulation outside their area they shall notify the area authority.

### **Placements outside England**

**39.**—(1) A voluntary organisation shall not place a child outside the British Islands<sup>(1)</sup>.

(2) Where a responsible authority makes arrangements to place a child outside England it shall ensure, so far as reasonably practicable, that the requirements which would have applied under these Regulations had the child been placed in England, are complied with.

(3) In the case of a placement by a local authority outside England or Wales, paragraph (2) is subject to the provisions of paragraph 19 of Schedule 2 to the 1989 Act (arrangements to assist children to live abroad).

### **Independent fostering agencies—discharge of local authority functions**

**40.**—(1) A local authority may make arrangements in accordance with this regulation for the duties imposed on it as a responsible authority by regulations 34, 35, 36(1) and 37 and where paragraph (3) applies, 33(b) to be discharged on its behalf by a registered person.

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(1) "British Islands" are defined in the Interpretation Act 1978 (c. 30) as meaning the United Kingdom, the Channel Islands and the Isle of Man.

(2) Subject to paragraph (3), no arrangements may be made under this regulation in respect of a particular child, unless a local authority has performed its duties under regulation 33 in relation to that child.

(3) Where a local authority makes arrangements with a registered person for the registered person to provide foster parents for the purposes of a short-term placement within the meaning of regulation 37(1), the local authority may also make arrangements for the registered person to perform the local authority's duty under regulation 33(b) in relation to that placement on its behalf.

(4) No arrangements may be made under this regulation unless a local authority has entered into a written agreement with the registered person which sets out—

- (a) which of its duties the local authority proposes to delegate in accordance with this regulation;
- (b) the services to be provided to the local authority by the registered person;
- (c) the arrangements for the selection by the local authority of particular foster parents from those approved by the registered person;
- (d) a requirement for the registered person to submit reports to the local authority on any placement as may be required by the authority, and in particular following any visit carried out under regulation 35; and
- (e) the arrangements for the termination of the agreement.

(5) Where a local authority proposes to make an arrangement under this regulation in respect of a particular child the local authority shall enter into an agreement with the registered person in respect of that child which sets out—

- (a) details of the particular foster parent with whom the child is to be placed;
- (b) details of any services the child is to receive;
- (c) the terms (including as to payment) of the proposed foster placement agreement;
- (d) the arrangements for record keeping about the child, and for the return of records at the end of the placement;
- (e) a requirement for the registered person to notify the local authority immediately in the event of any concerns about the placement; and
- (f) whether and on what basis other children may be placed with the foster parent.

(6) A foster parent with whom a child is placed in accordance with arrangements made under this regulation is, in relation to that placement, to be treated for the purposes of paragraph 12(d) of Schedule 2 to the 1989 Act as a local authority foster parent.

(7) A local authority shall report to the Commission any concerns it may have about the services provided by a registered person.

(8) In this regulation “registered person” means a person who is the registered person in respect of an independent fostering agency.