
STATUTORY INSTRUMENTS

2010 No. 959

The Care Planning, Placement and Case
Review (England) Regulations 2010

PART 8

Independent reviewing officers and independent visitors

Additional functions of independent reviewing officers

45.—(1) The IRO must ensure that, having regard to C's age and understanding, C has been informed by the responsible authority of the steps C may take under the 1989 Act and in particular, where appropriate, of—

- (a) C's rights to apply, with leave, for a section 8 order (*residence, contact and other orders with respect to children*) and, where C is in the care of the responsible authority, to apply for the discharge of the care order, and
- (b) the availability of the procedure established by them under section 26(3)(1) for considering any representations (including complaints) C may wish to make about the discharge by the responsible authority of their functions, including the availability of assistance to make such representations under section 26A(2) (*advocacy services*).

(2) If C wishes to take legal proceedings under the 1989 Act, the IRO must—

- (a) establish whether an appropriate adult is able and willing to assist C to obtain legal advice or bring proceedings on C's behalf, and
- (b) if there is no such person, assist C to obtain such advice.

(3) In the following circumstances the IRO must consider whether it would be appropriate to refer C's case to an officer of the Children and Family Court Advisory and Support Service—

- (a) in the opinion of the IRO, the responsible authority have failed in any significant respect to—
 - (i) prepare C's care plan in accordance with these Regulations,
 - (ii) review C's case in accordance with these Regulations, or effectively implement any decision taken in consequence of a review,

or are otherwise in breach of their duties to C in any material respect, and

- (b) having drawn the failure or breach to the attention of persons at an appropriate level of seniority within the responsible authority, it has not been addressed to the satisfaction of the IRO within a reasonable period of time.

(4) When consulted by the responsible authority about any matter concerning C, or when informed of any matter relating to C in accordance with these Regulations, the IRO must—

- (a) ensure that the responsible authority have ascertained and, subject to C's age and understanding, given due consideration to, C's wishes and feelings concerning the matter in question, and
- (b) consider whether to request a review of C's case.

Qualifications and experience of independent reviewing officers

46.—(1) The IRO must be registered as a social worker in a register maintained by the General Social Care Council or by the Care Council for Wales under section 56 of the Care Standards Act 2000⁽³⁾, or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(2) The IRO must have sufficient relevant social work experience with children and families to perform the functions of an independent reviewing officer set out in section 25B(1) and under these Regulations in an independent manner and having regard to C's best interests.

- (3) The responsible authority must not appoint any of the following as the IRO—
- (a) a person involved in preparing C's care plan or the management of C's case,
 - (b) R,
 - (c) C's personal adviser,
 - (d) a person with management responsibilities in relation to a person mentioned in sub-paragraphs (a) to (c), or
 - (e) a person with control over the resources allocated to the case.

Independent visitors

47. A person appointed by the responsible authority as an independent visitor under section 23ZB(1) is to be regarded as independent of that authority where the person appointed is not connected with the responsible authority by virtue of being—

- (a) a member of the responsible authority or any of their committees or sub-committees, whether elected or co-opted,
- (b) an officer of the responsible authority employed in relation to the exercise of the functions referred to in section 18(2) of the Children Act 2004⁽⁴⁾, or
- (c) a spouse, civil partner or other person (whether of different sex or the same sex) living in the same household as the partner of a person falling within sub-paragraph (a) or (b).

(3) 2000 c.14.

(4) Section 18(2) is amended by sections 16(1), (2)(a) and (b) and 103(2) of, and Schedule 3, Part 2 to, the Childcare Act 2006 (c.21), and by section 2 of, and Schedule 1 paragraphs 264 and 266 to, the National Health Service (Consequential Provisions) Act 2006 (c.43).