
STATUTORY INSTRUMENTS

1991 No. 910

The Foster Placement (Children) Regulations 1991

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Foster Placement (Children) Regulations 1991 and shall come into force on 14th October 1991.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Children Act 1989;

“approving authority”, in relation to a foster parent, means the local authority⁽¹⁾ or voluntary organisation responsible under regulation 3 for approving (or not approving) the foster parent;

“area authority”, in relation to a child (and foster parent), means the local authority in whose area the child is placed where that authority is not also the responsible authority;

“foster parent” means the person with whom a child is or is proposed to be placed under these Regulations;

“foster placement agreement” means an agreement referred to in regulation 5(6);

“responsible authority”, in relation to a child, means the local authority or voluntary organisation responsible for the placement of the child under (as the case may be) section 23(2)(a) or 59(1)(a) of the Act.

(3) Any notice or consent required under these Regulations is to be given in writing and any such notice may be sent by post.

(4) In these Regulations—

(a) any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number;

(b) any reference to a numbered Schedule is to the Schedule to these Regulations bearing that number.

Scope of the Regulations

2.—(1) These Regulations apply (subject to paragraph (2)) to any placement of a child—

(a) by a local authority under section 23(2)(a) of the Act;

(b) by a voluntary organisation under section 59(1)(a) of the Act (unless they are acting on behalf of a local authority).

⁽¹⁾ authority is defined in section 105(1) of the Act as the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London. Pursuant to section 2 of the Local Authority Social Services Act 1970 (c. 42), local authority functions under the Children Act 1989 stand referred to the social services committee of a local authority.

- (2) These Regulations do not apply to any placement of a child—
- (a) to which the Placement of Children with Parents etc. Regulations 1991(2) apply;
 - (b) if the child is not in the care of a local authority, with a parent of his or other person having parental responsibility for him;
 - (c) for adoption pursuant to the Adoption Act 1976(3).
- (3) Where a care order is in force the application of these Regulations is subject to any directions given by a court (whether before, on or after these Regulations come into force).
- (4) Nothing in these Regulations requires the temporary removal of a child from a person with whom he is already living before placement under these Regulations.

PART II

APPROVALS AND PLACEMENTS

Approval of foster parents

3.—(1) Except in the case of an immediate placement under regulation 11, a child is not to be placed unless the foster parent is approved under this regulation.

(2) Subject to paragraph (3), any local authority and any voluntary organisation which is also a responsible authority may approve a foster parent.

(3) A local authority or voluntary organisation—

- (a) are not to approve a foster parent who is already approved by another local authority or voluntary organisation;
- (b) are not to approve a foster parent in the area of an area authority unless they first consult with, and take into account the views of, that authority whom they are also to notify of their decision.

(4) A local authority or voluntary organisation are not to give any approval under this regulation unless they have first—

- (a) required the prospective foster parent to supply the names and addresses of two persons to provide personal references for him and have arranged for them to be interviewed;
- (b) obtained so far as practicable, the information specified in Schedule 1 relating to him and other members of his household and family,

and (having had regard to these matters) are satisfied that the person is suitable to act as a foster parent and that his household is suitable for any child in respect of whom approval is given.

(5) An approval given under this regulation may be 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.

(6) Where an approving authority approve a person as a foster parent they—

- (a) shall give him notice which specifies whether the approval 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;
- (b) shall nevertheless place no child with him unless he enters into a written agreement with them covering the matters specified in Schedule 2.

(2) S.I. 1991/893.

(3) 1976 c. 36.

(7) Where an approving authority decide not to approve a person as a foster parent they shall give him notice of the decision.

Reviews and terminations of approval

4.—(1) Where a foster parent has been approved under regulation 3 the approving authority are to review, at intervals of not more than a year, whether the foster parent and his household continue to be suitable (as mentioned in regulation 3(4)).

(2) When undertaking a review under this regulation the approving authority are to seek, and take into account, the views of the foster parent and of any responsible authority who have placed a child with the foster parent within the preceding year or who have an earlier placement with the foster parent which has not been terminated.

(3) At the conclusion of the review the approving authority are to prepare a report and give notice to the foster parent of their decision (including any revision of the terms of the approval under regulation 3(6)(a)).

(4) Where on a review the approving authority are no longer satisfied—

(a) that the terms of the approval under regulation 3(6)(a) are appropriate they shall revise the terms;

(b) that the foster parent and his household are suitable they shall terminate the approval from a date to be specified in the notice under paragraph (3).

(5) Where a foster parent notifies the approving authority that he no longer wishes to act as a foster parent, or where the authority are otherwise satisfied that that is the case, the authority are to terminate the approval from a date to be specified by notice to the foster parent.

(6) A copy of any notice given under paragraph (3) or (5) is to be sent to any other local authority or voluntary organisation who have a child placed with the foster parent.

Placements

5.—(1) A responsible authority are not to place a child with a foster parent unless they are satisfied that—

(a) that is 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; and

(b) placement with the particular foster parent is the most suitable placement having regard to all the circumstances.

(2) In making arrangements for a placement a responsible authority are to secure that where possible the foster parent is—

(a) of the same religious persuasion as the child, or

(b) gives an undertaking that the child will be brought up in that religious persuasion.

(3) Consistent with the terms of any approval given under regulation 3, a responsible authority may place a child with a foster parent whom they have themselves approved or, provided the conditions specified in paragraph (4) are satisfied, with a foster parent approved by another local authority or voluntary organisation.

(4) The conditions referred to in paragraph (3) are that—

(a) the approving authority consent to the placement;

(b) any other local authority or voluntary organisation who already have a child placed with the foster parent also consent to the placement; and

- (c) the area authority (if they are not also the approving authority) are consulted, and their views taken into account, and are given notice of the placement.
- (5) A responsible authority which places a child after consulting an area authority under paragraph (4)(c) shall give notice of the placement to the area authority.
- (6) Except in the case of an emergency or immediate placement under regulation 11, a responsible authority are not to place a child unless the authority and the foster parent have entered into a written agreement relating to that child covering the matters specified in Schedule 3.

Supervision of placements

- 6.—(1) A responsible authority are to satisfy themselves that the welfare of each child placed by them continues to be suitably provided for by the placement and for that purpose the authority are to—
- (a) make arrangements for a person authorised by the authority to visit the child, in the home in which he is placed, from time to time as circumstances may require and when reasonably requested by the child or the foster parent and in particular (but subject to regulation 9(2))—
 - (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;
 - (b) give such advice to the foster parent as appears to the authority to be needed.
- (2) In the case of an emergency or immediate placement under regulation 11 the responsible authority are to 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 cause the authorised person, if they consider it appropriate, to arrange to see the child alone.
- (4) On each occasion on which a child is visited under this regulation the responsible authority are to cause a written report to be prepared by the person who made the visit.

Termination of placements

- 7.—(1) A responsible authority are not to allow the placement of a child with a particular foster parent 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 a child has been placed by some other local authority, or by a voluntary organisation, in the area of the area authority and it appears to the area authority that continuation of the placement would be detrimental to the welfare of the child, the area authority are to remove the child forthwith.
- (3) An area authority who remove a child under paragraph (2) are forthwith to notify the responsible authority.

Arrangements between local authorities and voluntary organisations as to placements

- 8.—(1) Where a local authority looking after a child are satisfied that the child should be placed with a foster parent, they may make arrangements under this regulation for the other duties imposed on them under this Part of these Regulations to be discharged on their behalf by a voluntary organisation.
- (2) A local authority are not to make arrangements under this regulation unless—
- (a) they are satisfied—
 - (i) as to the capacity of the voluntary organisation to discharge duties on their behalf, and

- (ii) that those arrangements are the most suitable way for those duties to be discharged; and
- (b) they enter into a written agreement with the voluntary organisation about the arrangements, providing for consultation and for exchange of information and reports between the authority and the organisation.

Short-term placements

9.—(1) This regulation applies to a series of short-term placements of a child with the same foster parent where the following conditions are satisfied—

- (a) all the placements occur within a period which does not exceed one year;
- (b) no single placement is for a duration of more than four weeks; and
- (c) the total duration of the placements does not exceed 90 days.

(2) Any series of short-term placements to which the regulation applies may be treated as a single placement for the purposes of this Part of these Regulations but with the modification that a visit under regulation 6(1)(a)(i) and (ii) and regulation 16(a) to (c) is to be made—

- (a) during the first in the series of placements; and
- (b) again, if more than six months pass from the beginning of that first placement when the child is in fact placed.

Placements outside England and Wales

10.—(1) A voluntary organisation are not to place a child outside the British Islands⁽⁴⁾.

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

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

Emergency and immediate placements by local authorities

11.—(1) Subject to paragraph (2) where arrangements have been made for the placement of a child in an emergency, a local authority may for a period not exceeding 24 hours place them with any person approved under regulation 3.

(2) Before an emergency placement is made pursuant to paragraph (1) the authority shall—

- (a) satisfy the provisions of regulation 5(1)(a), and
- (b) obtain a written agreement from the person with whom the child is to be placed that that person will carry out the duties specified in paragraph (4) of this regulation.

(3) Where a local authority are satisfied that the immediate placement of a child is necessary they may for a period not exceeding six weeks place the child with a person who has not been approved under regulation 3 provided, after interviewing the person, inspecting the accommodation and obtaining information about other persons living in his household, the authority are also satisfied that—

- (a) the person is a relative or friend of the child;

(4) Islands are defined in the [Interpretation Act 1978\(c.30\)](#) as meaning the United Kingdom, the Channel Islands and the Isle of Man.

- (b) the person has made a written agreement with the local authority to carry out the duties specified in paragraph (4); and
- (c) the provisions of regulation 5(1)(a) are satisfied.
- (4) The duties referred to in paragraph (2)(b) and (3)(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 different) the area authority, to visit the child at any time;
 - (c) where regulation 7(1) or (2) applies, to allow the child to be removed at any time by the local authority or (as the case may be) the area authority;
 - (d) to ensure that any information which that person may acquire relating to the child, or to 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 section 34 of the Act (parental contact etc) in relation to a child in care, with any contact order (as defined in section 8(1) of the Act) and with any arrangements made or agreed by the local authority.
- (5) Where a local authority make a placement under this regulation outside their area they shall notify the area authority.

PART III

RECORDS

Register of foster parents and others with whom a child is placed

12.—(1) A local authority are to enter, in a register kept for the purpose, the particulars specified in paragraph (2) for each foster parent in their area who is approved under regulation 3 and each person, not being an approved foster parent, with whom a child is placed pursuant to regulation 11 in their area.

- (2) The particulars mentioned in paragraph (1) are—
 - (a) the name and address of the foster parent (or, where foster parents are approved jointly, of both foster parents) or other person with whom the child is placed pursuant to regulation 11;
 - (b) the date of the approval under regulation 3 or agreement specified in regulation 11(3)(b);
 - (c) the terms of the notice of approval under regulation 3(6)(a) or of the agreement specified in regulation 11(3)(b) as for the time being in force.

Case records for foster parents and others with whom a child is placed

13.—(1) An approving authority are to compile (if one is not already established) and maintain a record for each foster parent whom they have approved under regulation 3 and for each person, not being an approved foster parent, with whom a child is placed by them pursuant to regulation 11.

(2) Each record compiled under paragraph (1) is to include copies of each of the documents specified in paragraph (3) and the information specified in paragraph (4).

- (3) The documents referred to in paragraph (2) are as the case may be—
 - (a) the notice of approval under regulation 3(6)(a);
 - (b) the agreement under regulation 3(6)(b) and Schedule 2;

- (c) any report of review of approval under regulation 4(3);
 - (d) any notice of termination of approval under regulation 4(3) or(5);
 - (e) any agreement specified in regulation 11(3)(b).
- (4) The information referred to in paragraph (2) is as the case maybe—
- (a) a record of each placement with the foster parent or person, notbeing an approved foster parent, with whom a child is placed pursuant to regulation 11, 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 approving authority in relation to the approval of the foster parent and in relation to any review of termination of the approval;
 - (c) the information obtained under regulation 11(3).
- (5) An approving authority are to compile a record for each prospective foster parent to whom notice is given under regulation 3(7) that he is not approved as a foster parent, the record to include a copy of the notice and the information, as to the foster parent and his household and family, obtained by the authority in connection with the question of approval.

Retention and confidentiality of records

14.—(1) The record for a foster parent or other person compiled under regulation 13, and any entry relating to him in the register maintained under regulation 12, is to be retained for at least 10 years from the date on which his approval is terminated, or until his death if earlier.

(2) The requirements of paragraph (1) may be complied with either by retaining the original written record (or a copy of it) or by keeping all the information from the record in some other accessible form (such as by means of a computer).

(3) The authority or organisation responsible for the maintenance of any register or record under regulation 12 or 13 are to secure its safekeeping and to take all necessary steps to ensure that the information which it contains is treated as confidential subject only to—

- (a) any provision in under or by virtue of a statute under which access to such register, record or information may be obtained or should be granted;
- (b) any court order under which access to such register, record or information may be obtained or given.

(4) Each voluntary organisation, where they are not acting as an authorised person⁽⁵⁾, shall provide a guardian ad litem of a child—

- (a) such access as may be required to—
 - (i) case records and registers maintained in accordance with these Regulations,
 - (ii) the information from such records or registers held in whatever form (such as by means of computer);
- (b) such copies of the records or entries in the registers as he may require.

⁽⁵⁾ For access by guardian ad litem to local authority and authorised person's records see section 42 of the 1989 Act as amended by paragraph 18 of Schedule 16 to the [Courts and Legal Services Act 1990\(c.41\)](#). person is defined in section 31 of the 1989 Act.

PART IV

LOCAL AUTHORITY VISITS TO CHILDREN PLACED BY VOLUNTARY ORGANISATIONS

Circumstances necessitating visits by local authorities

15.—(1) Subject to paragraph (2) every local authority shall arrange for one of their officers to visit every child who is accommodated with a foster parent within their area by or on behalf of a voluntary organisation in any of the following circumstances and within the periods specified—

- (a) within 28 days of the placement with the foster parent;
- (b) where the voluntary organisation which made the placement with the foster parent make representations to the local authority that there are circumstances relating to the child which require a visit, within 14 days of the receipt of the representations;
- (c) where the local authority are informed that the welfare of the child may not be being safeguarded or promoted, as soon as reasonably practicable but in any event within 7 days of being informed;
- (d) where the local authority are satisfied, following a visit to a child under this regulation in respect of a placement with the foster parent, that the child's welfare is being safeguarded and promoted, at intervals of not more than six months.

(2) This regulation shall not apply to children in respect of whom the local authority have made arrangements under regulation 8.

Requirements in respect of visits

16. Every local authority shall make arrangements to ensure that in respect of any visit made pursuant to regulation 15 an officer of theirs (but subject to regulation 9(2))—

- (a) sees the child during the course of the visit, unless he considers it unnecessary to do so or the child is not in fact with the foster parents at the time of the visit;
- (b) if the child is not there, makes arrangements to see the child as soon as reasonably practicable;
- (c) takes steps to discover whether the voluntary organisation which placed the child have made suitable arrangements to perform their duties under these Regulations and those under section 61 of the Act.

PART V

REVOCATION

Revocation

17. Subject to the operation of the transitional provisions of paragraph 21 of Schedule 14 to the Act, the Boarding-out of Children (Foster Placement) Regulations 1988(6) are hereby revoked.

Signed by authority of the Secretary of State for Health.

3rd April 1991

Virginia Bottomley
Minister of State,
Department of Health