
STATUTORY INSTRUMENTS

2010 No. 959

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

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Care Planning, Placement and Case Review (England) Regulations 2010 and come into force on 1st April 2011.

(2) These Regulations apply in relation to England only.

Interpretation

2.—(1) In these Regulations—

“the 1989 Act” means the Children Act 1989;

“the 2002 Regulations” means the Fostering Services Regulations 2002(1);

“appropriate person” means—

(a) P, where C is to live, or lives, with P;

(b) F, where C is to be placed, or is placed, with F;

(c) where C is to be placed, or is placed, in a children’s home, the person who is registered under Part 2 of the Care Standards Act 2000(2) in respect of that home; or

(d) where C is to be placed, or is placed, in accordance with other arrangements under section 22C(6)(d), the person who will be responsible for C at the accommodation;

“area authority” means the local authority(3) for the area in which C is placed, or is to be placed, where this is different from the responsible authority;

“C” means a child who is looked after by the responsible authority(4);

“care plan” means the plan for the future care of C prepared in accordance with Part 2;

“case record” has the meaning given in regulation 49;

“connected person” has the meaning given in regulation 24;

(1) S.I. 2002/57, amended by S.I. 2002/865, 2002/2469, 2004/664, 2006/1738, 2007/603, 2008/640, 2009/394 and 2009/1895.

(2) 2000 c.14.

(3) “Local authority” is defined in section 105(1) of the 1989 Act as, in relation to England, “the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London”.

(4) For the meaning of a child who is “looked after” see section 22(1) of the 1989 Act, as amended by section 107 of, and paragraph 19 of Schedule 5 to, the Local Government Act 2000 (c.22), section 2 of the 2000 Act and by section 116(2) of the Adoption and Children Act 2002.

“director of children’s services” means the officer of the responsible authority appointed for the purposes of section 18 of the Children Act 2004(5);

“F” means a person who is approved as a local authority foster parent(6) and with whom it is proposed to place C or, as the case may be, with whom C is placed;

“fostering service provider” has the meaning given in regulation 2(1) of the 2002 Regulations;

“full assessment process” has the meaning given in regulation 24(2)(c);

“health plan” has the meaning given in regulation 5(b)(i);

“independent visitor” means the independent person appointed to be C’s visitor under section 23ZB;

“IRO” means the independent reviewing officer appointed for C’s case under section 25A(1);

“nominated officer” means a senior officer of the responsible authority nominated in writing by the director of children’s services for the purposes of these Regulations;

“P” means—

- (a) a person who is C’s parent;
- (b) a person who is not C’s parent but who has parental responsibility for C; or
- (c) where C is in the care of the responsible authority and there was a residence order in force with respect to C immediately before the care order was made, a person in whose favour the residence order was made(7);

“pathway plan” has the meaning given in section 23E(1)(a);

“personal adviser” means the personal adviser arranged for C under paragraph 19C(8) of Schedule 2 to the 1989 Act;

“personal education plan” has the meaning given in regulation 5(b)(ii);

“placement” means—

- (i) arrangements made by the responsible authority for C to live with P in accordance with section 22C(2), where C is in the care of the responsible authority, or
- (ii) arrangements made by the responsible authority to provide for C’s accommodation and maintenance by any of the means specified in section 22C(6);

“placement plan” has the meaning given in regulation 9(1)(a);

“R” means the representative of the responsible authority who is appointed to visit C in accordance with arrangements made by them under section 23ZA;

“responsible authority” means the local authority that looks after C;

“special educational needs” and “special educational provision” have the meanings given in section 312 of the Education Act 1996(9);

“temporary approval” has the meaning given in regulation 24(1); and

“working day” means any day other than—

- (a) a Saturday or a Sunday,

(5) 2004 c.31.

(6) “Local authority foster parent” is defined in section 22C(12) of the 1989 Act as a person who is approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to that Act. The relevant Regulations are the 2002 Regulations.

(7) Any reference to a child who in the care of an authority means a child who is in their care by virtue of a care order, see section 105(1) of the 1989 Act.

(8) Paragraph 19C of Schedule 2 was inserted by section 1 of the 2000 Act.

(9) 1996 c.56. Section 312 was amended by paragraph 23 of Schedule 7, and Schedule 8, to the Education Act 1997 (c.44), paragraphs 57 and 71 of Schedule 30 to the School Standards and Framework Act 1998 (c.31), paragraph 56 of Schedule 9 to the Learning and Skills Act 2000 (c.21), paragraph 3 of Schedule 1 to the Education and Inspections Act 2006 (c.40).

- (b) Christmas day or Good Friday, or
- (c) a bank holiday in England and Wales under the [Banking and Financial Dealings Act 1971](#)(10).

(2) In these Regulations any reference to any document or other record includes any such document or record that is kept or provided in a readily accessible form and includes copies of original documents and electronic methods of recording information.

(3) Save as otherwise appears—

- (a) any reference in these Regulations to a numbered section is a reference to that section in the 1989 Act; and
- (b) any reference in these Regulations to a numbered regulation, Part or Schedule is a reference to that regulation, Part or Schedule in these Regulations.

3. These Regulations do not apply in relation to any child who is looked after by a local authority and who has been placed for adoption under the Adoption and Children Act 2002(11).

PART 2

Arrangements for looking after a child

Care planning

4.—(1) Where C is not in the care of the responsible authority and a care plan for C has not already been prepared, the responsible authority must assess C's needs for services to achieve or maintain a reasonable standard of health or development, and prepare such a plan.

(2) Except in the case of a child to whom section 31A (*care orders: care plans*) applies(12), or where paragraph (6) applies, the care plan must be prepared before C is first placed by the responsible authority or, if it is not practicable to do so, within ten working days of the start of the first placement.

(3) When assessing C's needs under paragraph (1), the responsible authority must consider whether C's placement meets the requirements of Part 3 of the 1989 Act.

(4) Unless paragraph (5) applies, the care plan should, so far as is reasonably practicable, be agreed by the responsible authority with—

- (a) any parent of C's and any person who is not C's parent but who has parental responsibility for C, or
- (b) if there is no such person, the person who was caring for C immediately before the responsible authority arranged a placement for C.

(5) Where C is aged 16 or over and agrees to be provided with accommodation under section 20(13), the care plan should be agreed with C by the responsible authority.

(6) Where C was first placed by the responsible authority before 1st April 2011, the care plan must be prepared as soon as reasonably practicable.

Preparation and content of the care plan

5. The care plan must include a record of the following information—

(10) [1971 c.80](#).

(11) [2002 c.38](#).

(12) In the case of a child to whom section 31A applies, the court will set the timetable within which the care plan must be prepared.

(13) Section 20 of the 1989 Act was amended by section 53(2) of the Children Act 2004 and by sections 139(1) and (3) of, and paragraphs 54 and 59 of Schedule 3 to, the Adoption and Children Act 2002.

- (a) the long term plan for C’s upbringing (“the plan for permanence”),
- (b) the arrangements made by the responsible authority to meet C’s needs in relation to—
 - (i) health, including the information set out in paragraph 1 of Schedule 1 (“the health plan”),
 - (ii) education and training, including, so far as reasonably practicable, the information set out in paragraph 2 of Schedule 1 (“the personal education plan”),
 - (iii) emotional and behavioural development,
 - (iv) identity, with particular regard to C’s religious persuasion, racial origin and cultural and linguistic background,
 - (v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 1,
 - (vi) social presentation, and
 - (vii) self-care skills,
- (c) except in a case where C is in the care of the responsible authority but is not provided with accommodation by them by any of the means specified in section 22C, the placement plan,
- (d) the name of the IRO, and
- (e) details of the wishes and feelings of the persons listed in section 22(4)(14) about the arrangements referred to in sub-paragraph (b) and the placement plan that have been ascertained and considered in accordance with section 22(4) and (5) and the wishes and feelings of those persons in relation to any change, or proposed change, to the care plan.

6.—(1) The responsible authority must keep C’s care plan under review in accordance with Part 6 and, if they are of the opinion some change is required, they must revise the care plan or prepare a new care plan accordingly.

(2) Save as otherwise provided in these Regulations, the responsible authority must not make any significant change to the care plan unless the proposed change has first been considered at a review of C’s case.

(3) Subject to paragraph (4), the responsible authority must give a copy of the care plan—

- (a) to C, unless it would not be appropriate to do so having regard to C’s age and understanding,
- (b) to P,
- (c) to the IRO,
- (d) where C is to be placed, or is placed, with F, to the fostering service provider that approved F in accordance with the 2002 Regulations,
- (e) where C is to be placed, or is placed, in a children’s home, to the person who is registered under Part 2 of the Care Standards Act 2000 in respect of that home, and
- (f) where C is to be placed, or is placed, in accordance with other arrangements under section 22C(6)(d), to the person who will be responsible for C at the accommodation.

(4) The responsible authority may decide not to give a copy of the care plan, or a full copy of the care plan, to P if to do so would put C at risk of significant harm.

(14) The persons listed in that section are: (a) C, (b) any parent of C’s and any person who is not C’s parent but who has parental responsibility for C, and (c) any other person whose wishes and feelings the responsible authority consider to be relevant.

Health care

7.—(1) Before C is first placed by them or, if that is not reasonably practicable, before the first review of C’s case, the responsible authority must make arrangements for a registered medical practitioner to—

- (a) carry out an assessment of C’s state of health, and
- (b) provide a written report of the assessment, addressing the matters specified in paragraph 1 of Schedule 1,

as soon as reasonably practicable.

(2) Paragraph (1) does not apply if, within a period of three months immediately preceding the placement, an assessment of C’s state of health has been carried out and the responsible authority has obtained a written report that meets the requirements of that paragraph.

(3) The responsible authority must make arrangements for a registered medical practitioner or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner to review C’s state of health and provide a written report of each review, addressing the matters specified in paragraph 1 of Schedule 1—

- (a) at least once in every period of six months before C’s fifth birthday, and
- (b) at least once in every period of 12 months after C’s fifth birthday.

(4) Paragraphs (1) and (3) do not apply if C refuses consent to the assessment, being of sufficient age and understanding to do so.

(5) The responsible authority must take all reasonable steps to ensure that C is provided with appropriate health care services, in accordance with the health plan, including—

- (a) medical and dental care and treatment, and
- (b) advice and guidance on health, personal care and health promotion issues.

Contact with a child in care

8.—(1) This regulation applies if C is in the care of the responsible authority and they have decided under section 34(6) (*refusal of contact as a matter of urgency*) to refuse to allow contact that would otherwise be required by virtue of section 34(1)(15) or an order under section 34 (*parental contact etc. with children in care*).

(2) The responsible authority must immediately give written notification to the following persons of the information specified in paragraph (3) (“the specified information”)—

- (a) C, unless it would not be appropriate to do so having regard to C’s age and understanding,
- (b) P,
- (c) where, immediately before the care order was made, a person had care of C by virtue of an order made in exercise of the High Court’s inherent jurisdiction with respect to children, that person,
- (d) any other person whose wishes and feelings the responsible authority consider to be relevant, and
- (e) the IRO.

(3) The specified information is—

- (a) the responsible authority’s decision,
- (b) the date of the decision,

(15) Section 34(1) was amended by section 139(1) of, and paragraphs 54 and 64 of Schedule 3 to, the Adoption and Children Act 2002.

- (c) the reasons for the decision,
 - (d) the duration of the decision (if applicable), and
 - (e) remedies available in case of dissatisfaction.
- (4) The responsible authority may depart from the terms of any order made under section 34 by agreement with the person in relation to whom the order is made, provided that—
- (a) C, being of sufficient age and understanding, also agrees, and
 - (b) written notification of the specified information is given within five working days to the persons listed in paragraph (2).
- (5) Where the responsible authority has decided to vary or suspend any arrangements made (otherwise than under an order under section 34) with a view to affording any person contact with C, the responsible authority must immediately give written notification containing the specified information to the persons listed in paragraph (2).
- (6) The responsible authority must record any decision made under this regulation in C’s care plan.

PART 3

Placements – general provisions

Placement plan

- 9.**—(1) Subject to paragraphs (2) and (4), before making arrangements in accordance with section 22C for C’s placement, the responsible authority must—
- (a) prepare a plan for the placement (“the placement plan”) which—
 - (i) sets out how the placement will contribute to meeting C’s needs, and
 - (ii) includes all the matters specified in Schedule 2 as are applicable, having regard to the type of the placement, and
 - (b) ensure that—
 - (i) C’s wishes and feelings have been ascertained and given due consideration, and
 - (ii) the IRO has been informed.
- (2) If it is not reasonably practicable to prepare the placement plan before making the placement, the placement plan must be prepared within five working days of the start of the placement.
- (3) The placement plan must be agreed with, and signed by, the appropriate person.
- (4) Where the arrangements for C’s placement were made before 1st April 2011, the responsible authority must prepare the placement plan as soon as reasonably practicable.

Avoidance of disruption in education

- 10.**—(1) Subject to paragraphs (2) and (3), if C is a registered pupil at a school in the fourth key stage, a decision to make any change to C’s placement that would have the effect of disrupting the arrangements made for C’s education must not be put into effect until it has been approved by a nominated officer⁽¹⁶⁾.

⁽¹⁶⁾ For the definition of “fourth key stage” see paragraph 12D(2) of Schedule 2 to the 1989 Act. Paragraph 12D was inserted by section 8(2) of, and paragraph 4 of Schedule 1 to, the 2008 Act.

(2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) the educational provision made for C at the placement will promote C's educational achievement and is consistent with C's personal education plan,
- (c) the designated teacher⁽¹⁷⁾ at the school has been consulted, and
- (d) the IRO has been consulted.

(3) Paragraph (1) does not apply in any case where—

- (a) the responsible authority terminates C's placement in accordance with regulation 14(3), or
- (b) it is necessary for any other reason to change C's placement in an emergency,

and in such a case the responsible authority must make appropriate arrangements to promote C's educational achievement as soon as reasonably practicable.

(4) In any case not falling within paragraph (1), but where the responsible authority propose making any change to C's placement that would have the effect of disrupting the arrangements made for C's education or training, the responsible authority must ensure that other arrangements are made for C's education or training that meet C's needs and are consistent with C's personal education plan.

(5) In this regulation—

- (a) "registered pupil" has the meaning given in section 20(7) of the Children and Young Persons Act 2008⁽¹⁸⁾, and
- (b) "school" has the meaning given in section 4 of the Education Act 1996⁽¹⁹⁾.

Placement out of area

Placement decision

11.—(1) Subject to paragraphs (3) and (4), a decision to place C outside the area of the responsible authority (including a placement outside England) must not be put into effect until it has been approved by a nominated officer.

(2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) the placement is the most appropriate placement available for C and consistent with C's care plan,
- (c) C's relatives⁽²⁰⁾ have been consulted, where appropriate,
- (d) the area authority have been notified, and
- (e) the IRO has been consulted.

⁽¹⁷⁾ The "designated teacher" in the case of a maintained school means the member of staff designated by the governing body in accordance with section 20(1) of the 2008 Act. Academies, City Technology Colleges and City Colleges for the Technology of the Arts are required by their Funding Agreements to have a designated teacher. The Designated Teacher (Looked After Pupils etc.)(England) Regulations 2009 (S.I. 2009/1538) made under section 20(3) of the 2008 Act prescribe the qualifications and experience of the designated teacher.

⁽¹⁸⁾ That is, the meaning given in section 434(5) of the Education Act 1996.

⁽¹⁹⁾ That is, an educational institution, outside the further and higher education sectors, for providing primary and/or secondary education.

⁽²⁰⁾ 'Relative' is defined in section 105(1) of the 1989 Act as 'a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent'.

(3) In the case of a placement made in an emergency, paragraph (2) does not apply and before approving a decision under paragraph (1) the nominated officer must—

- (a) be satisfied that regulation 9(1)(b)(i) and the requirements of sub-paragraph (2)(b) have been complied with, and
- (b) take steps to ensure that regulation 9(1)(b)(ii) and the requirements set out in sub-paragraphs (2)(c) and (d) are complied with by the responsible authority within five working days of approval of the decision under paragraph (1).

(4) Paragraphs (1) and (2) do not apply to a decision to place C outside the area of the responsible authority with—

- (a) F who is a connected person, or
- (b) F who is approved as a local authority foster parent by the responsible authority.

Placements outside England and Wales

12.—(1) This regulation applies if—

- (a) C is in the care of the responsible authority, and
- (b) the responsible authority make arrangements to place C outside England and Wales in accordance with the provisions of paragraph 19 of Schedule 2 to the 1989 Act (*placement of a child in care outside England and Wales*).

(2) The responsible authority must take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements which would have applied under these Regulations had C been placed in England, are complied with.

(3) The responsible authority must include in the care plan details of the arrangements made by the responsible authority to supervise C's placement.

Notification of placement

13.—(1) Subject to paragraph (3), the responsible authority must give written notification to the persons listed in paragraph (2) of the arrangements for C's placement before the placement is made or, if the placement is made in an emergency, within five working days of the start of the placement, unless it is not reasonably practicable to do so.

(2) The persons referred to in paragraph (1) are—

- (a) C, unless it would not be appropriate to do so having regard to C's age and understanding,
- (b) P,
- (c) if C is in the care of the responsible authority, any person who is allowed contact with C under section 34(1) and any person who has contact with C by virtue of an order under section 34,
- (d) if C is looked after but is not in the care of the responsible authority, any person who has contact with C pursuant to an order made under section 8 (*residence, contact and other orders with respect to children*),
- (e) any person who was caring for C immediately before the arrangements were made,
- (f) the Primary Care Trust (or in the case of a child living or to be placed in Wales, the local health board) for the area in which C is living and, if different, for the area in which C is to be placed,
- (g) C's registered medical practitioner and, where applicable, the registered medical practitioner with whom C is to be registered during the placement,

(h) any educational institution attended by, or person providing education or training for, C, and

(i) the IRO.

(3) The responsible authority may decide not to give notification to any of the persons listed in sub-paragraphs (b) to (e) if to do so would put C at risk of significant harm.

Termination of placement by the responsible authority

14.—(1) Subject to paragraphs (3) and (5), the responsible authority may only terminate C's placement following a review of C's case in accordance with Part 6.

(2) Subject to paragraphs (3) and (4), before terminating C's placement, the responsible authority must—

(a) make other arrangements for C's accommodation, in accordance with section 22C,

(b) inform the IRO,

(c) so far as is reasonably practicable, give written notification of their intention to terminate the placement to—

(i) all the persons to whom notification of the placement was given under regulation 13,

(ii) the person with whom C is placed,

(iii) where C is placed in the area of another local authority, that authority.

(3) Where there is an immediate risk of significant harm to C, or to protect others from serious injury, the responsible authority must terminate C's placement, and in those circumstances—

(a) paragraph (1) does not apply, and

(b) they must comply with paragraph (2)(a) and (b) as soon as reasonably practicable.

(4) If it is not reasonably practicable to notify any person in accordance with paragraph (2)(c), then the responsible authority must give written notification to that person, within ten working days of the date on which the placement is terminated, of the fact that the placement has been terminated.

(5) This regulation does not apply where C's placement is terminated under regulation 19(c), regulation 23(2) or regulation 25(6), nor where section 22D(21) (*review of child's case before making alternative arrangements for accommodation*) applies.

PART 4

Provision for different types of placement

CHAPTER 1

Placement of a child in care with P

Application

15.—(1) This Chapter applies if C is in the care of the responsible authority and they, acting in accordance with section 22C(2), propose to place C with P.

(2) Nothing in this Chapter requires the responsible authority to remove C from P's care if C is living with P before a placement decision is made about C.

Effect of contact order

16. The responsible authority must not place C with P if to do so would be incompatible with any order made by the court under section 34.

Assessment of P's suitability to care for a child

17. Before deciding to place C with P, the responsible authority must—
- (a) assess the suitability of P to care for C, including the suitability of—
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that C will live,
 - (b) take into account all the matters set out in Schedule 3 in making their assessment,
 - (c) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the placement will safeguard and promote C's welfare and meet C's needs set out in the care plan, and
 - (d) review C's case in accordance with Part 6.

Decision to place a child with P

18.—(1) The decision to place C with P must not be put into effect until it has been approved by a nominated officer, and the responsible authority have prepared a placement plan for C.

- (2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—
- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
 - (b) the requirements of regulation 17 have been complied with,
 - (c) the placement will safeguard and promote C's welfare, and
 - (d) the IRO has been consulted.

Circumstances in which a child may be placed with P before assessment completed

19. Where the nominated officer considers it to be necessary and consistent with C's welfare, the responsible authority may place C with P before their assessment under regulation 17 ("the assessment") is completed provided that they—

- (a) arrange for P to be interviewed in order to obtain as much of the information specified in Schedule 3 about P and the other persons living in P's household who are aged 18 and over as can be readily ascertained at that interview,
- (b) ensure that the assessment and the review of C's case are completed in accordance with regulation 17 within ten working days of C being placed with P, and
- (c) ensure that a decision in accordance with regulation 18 is made and approved within ten working days after the assessment is completed, and—
 - (i) if the decision is to confirm the placement, review the placement plan and, if appropriate amend it, and
 - (ii) if the decision is not to confirm the placement, terminate the placement.

Support for P

20. Where C is placed, or is to be placed, with P, the responsible authority must provide such services and support to P as appear to them to be necessary to safeguard and promote C's welfare and must record details of such services and support in C's care plan.

CHAPTER 2

Placement with local authority foster parents

Interpretation

21.—(1) In this Chapter “registered person” has the same meaning as in the 2002 Regulations (22).

(2) Where C is placed jointly with two persons each of whom is approved as a local authority foster parent, any reference in these Regulations to a local authority foster parent is to be interpreted as referring equally to both such persons and any requirement to be satisfied by or relating to a particular local authority foster parent must be satisfied by, or treated as relating to, both of them.

Conditions to be complied with before placing a child with a local authority foster parent

22.—(1) This regulation applies where the responsible authority propose to place C with F.

(2) The responsible authority may only place C with F if—

(a) F is approved by—

(i) the responsible authority, or

(ii) provided that the conditions specified in paragraph (3) are also satisfied, another fostering service provider,

(b) the terms of F’s approval are consistent with the proposed placement, and

(c) F has entered into a foster care agreement either with the responsible authority or with another fostering service provider in accordance with regulation 28(5)(b) of the 2002 Regulations.

(3) The conditions referred to in paragraph (2)(a)(ii) are that—

(a) the fostering service provider by whom F is approved consents to the proposed placement, and

(b) where any other local authority currently have a child placed with F, that local authority consents to the proposed placement.

Emergency placement with a local authority foster parent

23.—(1) Where it is necessary to place C in an emergency, the responsible authority may place C with any local authority foster parent who has been approved in accordance with the 2002 Regulations, even if the terms of that approval are not consistent with the placement, provided that the placement is for no longer than six working days.

(2) When the period of six working days referred to in paragraph (1) expires, the responsible authority must terminate the placement unless the terms of that person’s approval have been amended to be consistent with the placement.

Temporary approval of relative, friend or other person connected with C

24.—(1) Where the responsible authority is satisfied that—

(a) the most appropriate placement for C is with a connected person, notwithstanding that the connected person is not approved as a local authority foster parent, and

(22) “Registered person” is defined in regulation 2(1) of the 2002 Regulations.

- (b) it is necessary for C to be placed with the connected person before the connected person's suitability to be a local authority foster parent has been assessed in accordance with the 2002 Regulations,

they may approve that person as a local authority foster parent for a temporary period not exceeding 16 weeks ("temporary approval") provided that they first comply with the requirements of paragraph (2).

- (2) Before making a placement under paragraph (1), the responsible authority must—
 - (a) assess the suitability of the connected person to care for C, including the suitability of—
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that C will live,
 taking into account all the matters set out in Schedule 4,
 - (b) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the proposed arrangements will safeguard and promote C's welfare and meet C's needs set out in the care plan, and
 - (c) make immediate arrangements for the suitability of the connected person to be a local authority foster parent to be assessed in accordance with the 2002 Regulations ("the full assessment process") before the temporary approval expires.
- (3) In this regulation "connected person" means a relative, friend or other person connected with C.

Expiry of temporary approval

25.—(1) Subject to paragraph (4), the responsible authority may extend the temporary approval of a connected person if—

- (a) it is likely to expire before the full assessment process is completed, or
- (b) the connected person, having undergone the full assessment process, is not approved and seeks a review of the decision in accordance with Regulations made under paragraph 12F(1)(b) of Schedule 2 to the 1989 Act (**23**).

(2) In a case falling within paragraph (1)(a), the responsible authority may extend the temporary approval once for a further period of up to eight weeks.

(3) In a case falling within paragraph (1)(b), the responsible authority may extend the temporary approval until the outcome of the review is known.

(4) Before deciding whether to extend the temporary approval in the circumstances set out in paragraph (1), the responsible authority must first—

- (a) consider whether placement with the connected person is still the most appropriate placement available,
- (b) seek the views of the fostering panel established by the fostering service provider in accordance with the 2002 Regulations, and
- (c) inform the IRO.

(5) A decision to extend temporary approval must be approved by a nominated officer.

(6) If the period of temporary approval and of any extension to that period expires and the connected person has not been approved as a local authority foster parent in accordance with the 2002 Regulations, the responsible authority must terminate the placement after first making other arrangements for C's accommodation.

(23) See the Independent Review of Determinations (Adoptions and Fostering) Regulations 2009 (S.I. 2009/395).

Independent fostering agencies – discharge of responsible authority functions

26.—(1) A responsible authority may make arrangements in accordance with this regulation for the duties imposed on it as responsible authority by regulation 14(3) and regulation 22 to be discharged on their behalf by a registered person.

(2) No arrangements may be made under this regulation unless the responsible authority has entered into a written agreement with the registered person which includes the information set out in paragraph 1 of Schedule 5, and where the responsible authority proposes to make an arrangement under this regulation in relation to a particular child, the written agreement must also include the matters set out in paragraph 2 of Schedule 5.

(3) The responsible authority must report to the Chief Inspector of Education, Children’s Services and Skills any concerns they may have about the services provided by a registered person.

CHAPTER 3

Other arrangements

General duties of the responsible authority when placing a child in other arrangements

27. Before placing C in accommodation in an unregulated setting under section 22C(6)(d), the responsible authority must—

- (a) be satisfied that the accommodation is suitable for C, having regard to the matters set out in Schedule 6,
- (b) unless it is not reasonably practicable, arrange for C to visit the accommodation, and
- (c) inform the IRO.

PART 5

Visits by the responsible authority’s representative etc.

Frequency of visits

28.—(1) As part of their arrangements for supervising C’s welfare, the responsible authority must ensure that their representative (“R”) visits C in accordance with this regulation, wherever C is living.

(2) Subject to paragraphs (3) to (6), the responsible authority must ensure that R visits C—

- (a) within one week of the start of any placement,
- (b) at intervals of not more than six weeks for the first year of any placement, and
- (c) thereafter—
 - (i) where the placement is intended to last until C is aged 18, at intervals of not more than three months,
 - (ii) and in any other case, at intervals of not more than six weeks.

(3) Where regulation 19 applies, the responsible authority must ensure that R visits C—

- (a) at least once a week until the first review carried out in accordance with Part 6, and
- (b) thereafter at intervals of not more than six weeks.

(4) Where regulation 24 applies, or where an interim care order has been made in relation to C under section 38 (*interim orders*) and C is living with P, the responsible authority must ensure that R visits C—

- (a) at least once a week until the first review carried out in accordance with Part 6, and

- (b) thereafter at intervals of not more than four weeks.
- (5) Where a care order has been made in relation to C under section 31 (*care and supervision orders*) and C is living with P, the responsible authority must ensure that R visits C—
 - (a) within one week of the making of the care order, and
 - (b) thereafter at intervals of not more than six weeks.
- (6) Where C is in the care of the responsible authority but another person is responsible for the arrangements under which C is living for the time being (“C’s living arrangements”), the responsible authority must ensure that R visits C—
 - (a) within one week of the start of C’s living arrangements and within one week of any change to C’s living arrangements,
 - (b) at intervals of not more than six weeks for the first year thereafter, and
 - (c) at intervals of not more than three months in any subsequent year.
- (7) In addition to visits in accordance with paragraphs (2) to (6), the responsible authority must ensure that R visits C—
 - (a) whenever reasonably requested to do so by—
 - (i) C,
 - (ii) where paragraphs (2), (3) or (4) apply, the appropriate person, or
 - (iii) where paragraph (5) applies, the person responsible for C’s living arrangements,
 - (b) within one week of first receiving notification under section 30A of the Care Standards Act 2000⁽²⁴⁾ (*notification of matters relating to persons carrying on or managing certain establishments or agencies*), where the children’s home in which C is placed for the time being is referred to in that notification.

Conduct of visits

- 29.** On each visit, R must speak to C in private unless—
- (a) C, being of sufficient age and understanding to do so, refuses,
 - (b) R considers it inappropriate to do so, having regard to C’s age and understanding, or
 - (c) R is unable to do so.

Consequences of visits

30. Where, as the result of a visit carried out in accordance with this Part, R’s assessment is that C’s welfare is not adequately safeguarded and promoted by the placement, the responsible authority must review C’s case in accordance with Part 6.

Advice, support and assistance for the child

- 31.** When making arrangements in accordance with section 23ZA(2)(b) for advice, support and assistance to be available to C between R’s visits, the responsible authority must ensure that—
- (a) the arrangements—
 - (i) are appropriate having regard to C’s age and understanding, and
 - (ii) give due consideration to C’s religious persuasion, racial origin, cultural and linguistic background and to any disability C may have, and

(24) 2000 c.14; section 30A was inserted by section 29 of the 2008 Act.

- (b) so far as is reasonably practicable having regard to C's age and understanding, C knows how to seek appropriate advice, support and assistance from them.

PART 6

Reviews of the child's case

General duty of the responsible authority to review the child's case

32.—(1) The responsible authority must review C's case in accordance with this Part.

(2) The responsible authority must not make any significant change to C's care plan unless the proposed change has first been considered at a review of C's case, unless this is not reasonably practicable.

(3) Nothing in this Part prevents any review of C's case being carried out at the same time as any other review assessment or consideration of C's case under any other provision.

Timing of reviews

33.—(1) The responsible authority must first review C's case within 20 working days of the date on which C becomes looked after.

(2) The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months.

(3) The responsible authority must carry out a review before the time specified in paragraph (1) or (2) if—

- (a) the IRO so requests,
- (b) regulation 30 applies,
- (c) C is provided with accommodation under section 21(2)(b) or (c) and a review would not otherwise occur before C ceases to be so provided with accommodation,
- (d) C is in the care of the responsible authority and is detained in a secure training centre or a young offenders institution, and a review would not otherwise occur before C ceases to be so detained, or
- (e) C is looked after but is not in the care of the responsible authority and
 - (i) the responsible authority propose to cease to provide accommodation for C, and
 - (ii) accommodation will not subsequently be provided for C by C's parents (or one of them) or any person who is not C's parent but who has parental responsibility for C.

Conduct of reviews

Local authority's policy on reviews

34.—(1) The responsible authority must prepare and implement a written policy regarding the manner in which they will review cases in accordance with this Part.

(2) The responsible authority must provide a copy of their policy to—

- (a) C, unless it would not be appropriate to do so having regard to C's age and understanding,
- (b) C's parents, or any person who is not C's parent but who has parental responsibility for C, and
- (c) any other person whose views the responsible authority consider to be relevant.

Considerations to which the responsible authority must have regard

35. The considerations to which the responsible authority must have regard in reviewing each case are set out in Schedule 7.

The role of the IRO

36.—(1) The IRO must—

- (a) so far as reasonably practicable, attend any meeting held as part of the review (“the review meeting”) and, if attending the review meeting, chair it,
- (b) speak to C in private about the matters to be considered at the review unless C, being of sufficient understanding to do so, refuses or the IRO considers it inappropriate having regard to C’s age and understanding,
- (c) ensure that, so far as reasonably practicable, the wishes and feelings of C’s parents, or any person who is not C’s parent but who has parental responsibility for C, have been ascertained and taken into account, and
- (d) ensure that the review is conducted in accordance with this Part and in particular—
 - (i) that the persons responsible for implementing any decision taken in consequence of the review are identified, and
 - (ii) that any failure to review the case in accordance with this Part or to take proper steps to implement decisions taken in consequence of the review are brought to the attention of an officer at an appropriate level of seniority within the responsible authority.

(2) The IRO may, if not satisfied that sufficient information has been provided by the responsible authority to enable proper consideration of any of the matters in Schedule 7, adjourn the review meeting once for not more than 20 working days, and no proposal considered in the course of the review may be implemented until the review has been completed.

Arrangements for implementing decisions arising out of reviews

37. The responsible authority must—

- (a) make arrangements to implement decisions made in the course, or as a result, of the review, and
- (b) inform the IRO of any significant failure to make such arrangements, or any significant change of circumstances occurring after the review that affects those arrangements.

Records of reviews

38. The responsible authority must ensure that a written record of the review is prepared, and that the information obtained in the course of the review, details of proceedings at the review meeting, and any decisions made in the course, or as a result, of the review are included in C’s case record.

PART 7

Arrangements made by the responsible authority for ceasing to look after a child

Arrangements for ceasing to look after a child who is not an eligible child

39. In any case where—

- (a) C is not in the care of the responsible authority and is not an eligible child⁽²⁵⁾, and
- (b) C's circumstances have changed such that the responsible authority are likely to cease to provide C with accommodation

the care plan must include details of the advice, assistance and support that the responsible authority intend to provide for C when C ceases to be looked after by them.

Eligible children

Meaning of eligible child

40.—(1) For the purposes of paragraph 19B(2)(b) of Schedule 2 to the 1989 Act (*meaning of eligible child*), the prescribed period is 13 weeks and the prescribed age is 14.

(2) For the purposes of paragraph 19B(3)(b) of that Schedule, if C is a child to whom regulation 48 applies, C is not an eligible child despite falling within paragraph 19B(2) of that Schedule.

General duties

- 41.** If C is an eligible child, the responsible authority must —
- (a) assess C's needs in accordance with regulation 42, and
 - (b) prepare C's pathway plan, in accordance with regulation 43.

Assessment of needs

42.—(1) The responsible authority must complete the assessment of C's needs in accordance with paragraph 19B(4) of Schedule 2 to the 1989 Act not more than three months after the date on which C reaches the age of 16 or becomes an eligible child after that age.

(2) In carrying out their assessment of C's likely needs when C ceases to be looked after, the responsible authority must take account of the following considerations—

- (a) C's state of health (including physical, emotional and mental health) and development,
- (b) C's continuing need for education, training or employment,
- (c) the support that will be available to C from C's parents and other connected persons,
- (d) C's actual and anticipated financial resources and capacity to manage personal finances independently,
- (e) the extent to which C possesses the practical and other skills necessary for independent living,
- (f) C's need for continuing care, support and accommodation,
- (g) the wishes and feelings of—
 - (i) C,
 - (ii) any parent of C's and any person who is not C's parent but who has parental responsibility for C,
 - (iii) the appropriate person,
- (h) the views of—

(25) "Eligible child" is defined in paragraph 19B of Schedule 2 to the 1989 Act.

- (i) any person or educational institution that provides C with education or training and, if C has a statement of special educational needs, the local authority who maintain the statement (if different)(26),
- (ii) the IRO,
- (iii) any person providing health (whether physical, emotional or mental health) or dental care or treatment to C,
- (iv) the personal adviser appointed for C, and
- (v) any other person whose views the responsible authority, or C, consider may be relevant.

The pathway plan

43.—(1) The pathway plan must be prepared as soon as possible after the assessment of C’s needs and must include, in particular—

- (a) C’s care plan, and
- (b) the information referred to in Schedule 8.

(2) The pathway plan must, in relation to each of the matters referred to in paragraphs 2 to 10 of Schedule 8, set out—

- (a) the manner in which the responsible authority propose to meet C’s needs, and
- (b) the date by which, and by whom, any action required to implement any aspect of the plan will be carried out.

Functions of the personal adviser

44. The personal adviser’s functions in relation to C are to—

- (a) provide advice (including practical advice) and support,
- (b) participate in reviews of C’s case carried out under Part 6,
- (c) liaise with the responsible authority in the implementation of the pathway plan,
- (d) co-ordinate the provision of services and take reasonable steps to ensure C makes use of such services,
- (e) remain informed about C’s progress and wellbeing, and
- (f) maintain a written record of their contacts with C.

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

(26) “Statement of special educational needs” is defined in section 324 of the Education Act 1996.

- (b) the availability of the procedure established by them under section 26(3)(27) 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(28) (*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(29), 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 subparagraphs (a) to (c), or
 - (e) a person with control over the resources allocated to the case.

(27) Amended by section 117(2) and (3) of the 2002 Act.

(28) Inserted by section 119 of the 2002 Act.

(29) 2000 c.14.

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(30), 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).

PART 9**Miscellaneous****Application of these Regulations with modifications to short breaks**

48.—(1) In the circumstances set out in paragraph (2) these Regulations apply with the modifications set out in paragraph (3).

(2) The circumstances are that—

- (a) C is not in the care of the responsible authority,
- (b) the responsible authority have arranged to place C in a series of short-term placements with the same person or in the same accommodation (“short breaks”), and
- (c) the arrangement is such that—
 - (i) no single placement is intended to last for longer than 17 days,
 - (ii) at the end of each such placement, C returns to the care of C’s parent or a person who is not C’s parent but who has parental responsibility for C, and
 - (iii) the short breaks do not exceed 75 days in total in any period of 12 months.

(3) The modifications are that—

- (a) regulations 5 and 9 do not apply, but instead the care plan must set out the arrangements made to meet C’s needs with particular regard to—
 - (i) C’s health and emotional and behavioural development, in particular in relation to any disability C may have,
 - (ii) promoting contact between C and C’s parents and any other person who is not C’s parent but who has parental responsibility for C, during any period when C is placed,
 - (iii) C’s leisure interests, and
 - (iv) promoting C’s educational achievement,
 and must include the name and address of C’s registered medical practitioner, and the information set out in paragraph 3 of Schedule 2, where appropriate,
- (b) regulations 7, 13 and 49(2)(b) do not apply,
- (c) regulation 28(2) does not apply, but instead the responsible authority must ensure that R visits C on days when C is in fact placed, at regular intervals to be agreed with the IRO and

(30) 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).

- C's parents (or any person who is not C's parent but who has parental responsibility for C) and recorded in the care plan before the start of the first placement, and in any event—
- (i) the first visit must take place within three months of the start of the first placement, or as soon as practicable thereafter, and
 - (ii) subsequent visits must take place at intervals of not more than six months, for as long as the short breaks continue,
- (d) regulation 33 does not apply, but instead—
- (i) the responsible authority must first review C's case within three months of the start of the first placement, and
 - (ii) the second and subsequent reviews must be carried out at intervals of not more than six months.

Records

Establishment of records

- 49.**—(1) The responsible authority must establish and maintain a written case record for C (“C’s case record”), if one is not already in existence.
- (2) The case record must include—
- (a) C’s care plan, including any changes made to the care plan and any subsequent plans,
 - (b) reports obtained under regulation 7,
 - (c) any other document created or considered as part of any assessment of C’s needs, or of any review of C’s case,
 - (d) any court order relating to C,
 - (e) details of any arrangements that have been made by the responsible authority with any other local authority or with an independent fostering agency under regulation 26 and Schedule 5, or with a provider of social work services, under which any of the responsible authority’s functions in relation to C are discharged by that local authority or independent fostering agency or provider of social work services.

Retention and confidentiality of records

- 50.**—(1) The responsible authority must retain C’s case record either—
- (a) until the seventy-fifth anniversary of C’s birth, or
 - (b) if C dies before attaining the age of 18, for fifteen years beginning with the date of C’s death.
- (2) The responsible authority must secure the safe keeping of C’s case record and take any necessary steps to ensure that information contained in it is treated as confidential subject only to—
- (a) any provision of, or made under or by virtue of, a statute under which access to such a record or information may be obtained or given,
 - (b) any court order under which access to such a record or information may be obtained or given.

Revocations

- 51.** The Regulations set out in Schedule 9 are revoked.

24th March 2010

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families