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STATUTORY INSTRUMENTS

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**2015 No. 541**

**SOCIAL CARE, ENGLAND**  
**CHILDREN AND YOUNG PERSONS, ENGLAND**

The Children's Homes (England) Regulations 2015

*Made* - - - - 4th March 2015  
*Laid before Parliament* 6th March 2015  
*Coming into force* - - 1st April 2015

The Secretary of State, having consulted such persons as the Secretary of State considers appropriate<sup>M1</sup>, makes these Regulations in exercise of the powers conferred by section 14A of the Interpretation Act 1978<sup>M2</sup> and sections 1(4A), 22(1), (1A), (2)(a) to (d), (f) to (j), (5), (7)(a) to (h), (j), 34(1), 35(1) and 118(5) to (7) of the Care Standards Act 2000<sup>M3</sup>.

**Marginal Citations**

- M1** See section 22(9) of the [Care Standards Act 2000 \(c.14\)](#) for the requirement to consult.
- M2** [1978 c.30](#). Section 14A of the Interpretation Act 1978 was inserted by section 59 of the [Enterprise and Regulatory Reform Act 2013 \(c.24\)](#).
- M3** The powers are conferred upon the “appropriate Minister” who is defined in section 121(1) of the Care Standards Act 2000, in relation to England, as the Secretary of State. See section 121(1) of the Care Standards Act 2000 for the definitions of “prescribed” and “regulations”. Section 1(4A) of the Care Standards Act 2000 was inserted by section 95 of, and paragraph 2(3) of Schedule 5 to, the [Health and Social Care Act 2008 \(c.14\)](#). Section 22(1) of the Care Standards Act 2000 was amended by section 103(1) of the [Children and Families Act 2014 \(c.6, “the C&FA 2014”\)](#). Section 22(1A) of the Care Standards Act 2000 was inserted by section 103(2) of the C&FA 2014.

**PART 1** **E+W**

General

**Citation, commencement and application** **E+W**

1.—(1) These Regulations may be cited as the Children's Homes (England) Regulations 2015 and come into force on 1st April 2015.

(2) These Regulations apply—

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Children's Homes (England) Regulations 2015. (See end of Document for details)*

- (a) only to children's homes in England;
- (b) to a person aged 18 or over, as they apply to children, if the person—
  - (i) is accommodated in a children's home; and
  - (ii) is not employed in, or in relation to, the home.

## Interpretation **E+W**

### 2.—(1) In these Regulations—

“behaviour management policy” has the meaning given in regulation 35(1);

“care plan” has the meaning given in the Care Planning, Placement and Case Review (England) Regulations 2010 <sup>M4</sup>;

“care role” means a role in which the work consists, or consisted, mainly or solely of providing care for children or adults;

“case records” means the records maintained under regulation 36 about a child;

“child protection enquiry” means any enquiry carried out by a local authority in the exercise of any of their functions conferred by or under the Children Act 1989 <sup>M5</sup> relating to the protection of children;

“child protection policies” means the children's home's policies for safeguarding children (see regulation 34(1)) and preventing bullying (see regulation 34(3)) and the missing child policy (see regulation 34(4));

“childcare” has the meaning given in section 18 of the Childcare Act 2006 <sup>M6</sup>;

“children's guide” means a document produced by the registered person that explains, in a form appropriate to the age, needs and understanding of children—

- (a) what each child can expect of and from the home's care;
- (b) the support to which each child is entitled;
- (c) how to make a complaint about the home or someone in it; and
- (d) how to access advocacy support;

“EHC plan” has the meaning given in section 37(2) (education, health and care plans) of the Children and Families Act 2014;

“general medical practitioner” means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council under section 34C of the Medical Act 1983 <sup>M7</sup>;

“HMCI” means Her Majesty's Chief Inspector of Education, Children's Services and Skills;

“health”, in relation to a child, includes that child's emotional, mental and physical health;

“independent person” has the meaning given in regulation 43(1);

“independent reviewing officer” means a person appointed under section 25A of the Children Act 1989 <sup>M8</sup>[<sup>F1</sup> or section 99 of the Social Services and Well-being (Wales) Act 2014];

“organisation” means a body corporate or an unincorporated association other than a partnership (but see paragraph (2)(d));

“placement plan” means—

- (a) in relation to a child who is looked after by a local authority—
  - (i) the plan prepared under regulation 9 of the Care Planning, Placement and Case Review (England) Regulations 2010; or

- (ii) the child's detention placement plan prepared under regulation 47C(2) of those Regulations <sup>M9</sup>;
  - (b) in relation to a child who is not looked after by a local authority—
    - (i) the plan prepared under regulations 4 and 5 of the Arrangements for Placement of Children by Voluntary Organisations and Others (England) Regulations 2011 <sup>M10</sup>;
    - or
    - (ii) the plan prepared by the registered person under regulation 18(4);
- “placing authority”—
- (a) if the child is looked after by a local authority—
    - (i) and the child is not a youth justice child, means the local authority that looks after the child;
    - (ii) and the child is a youth justice child, means the local authority that looks after that youth justice child and the youth offending team with responsibility for that youth justice child;
  - (b) if the child is not looked after by a local authority—
    - (i) and the child is being provided with accommodation by a voluntary organisation, means that voluntary organisation;
    - (ii) and the child is accommodated in a qualifying school under arrangements made by a local authority, means that local authority;
    - (iii) and the child is a youth justice child, means the youth offending team with responsibility for that youth justice child;
    - (iv) in cases not falling within sub-paragraphs (i), (ii) or (iii), means the child's parent;
  - (c) does not include a parent of a child who is not looked after by a local authority in the following provisions—
    - (i) regulation 5(c);
    - (ii) regulation 16(2)(d);
    - (iii) regulation 18(9)(a);
    - (iv) regulation 34(2)(b) and (c);
    - (v) regulation 36(5)(b)(ii);
    - (vi) regulation 44(7)(c);
    - (vii) regulation 45(5);
    - (viii) paragraphs 19 and 20 of Schedule 3;

“qualifying school” means a school which is a children's home within the meaning of section 1(6) of the Care Standards Act 2000;

“registered dental practitioner” means a person registered in the dentists register under section 14 of the Dentists Act 1984 <sup>M11</sup>;

“registered manager” means a person who is registered under Part 2 of the Care Standards Act 2000 as the manager of the home;

“registered person” means the registered provider or the registered manager of the home;

“registered provider” means the person who is registered under Part 2 of the Care Standards Act 2000 as the person carrying on the home;

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“relevant person” means any person, body or organisation that the registered person considers to be relevant in relation to the care, protection or safeguarding of a particular child in all the circumstances;

“relevant plans”, in relation to a child, means—

- (a) any placement plan for the child;
- (b) any care plan for the child;
- (c) any EHC plan for the child;
- (d) any statement of special educational needs for the child; and
- (e) if the child is a youth justice child—
  - (i) any detention placement plan for the child (under regulation 47C(2) of the Care Planning, Placement and Case Review (England) Regulations 2010); and
  - (ii) any other plan or plans prepared by the child's placing authority in relation to the remand or sentencing of the child;

“responsible individual” means an individual who—

- (a) is a director, manager, secretary or other officer of an organisation which is the registered provider; and
- (b) is nominated by that organisation for the purpose of supervising the management of the home on behalf of the organisation;

“restraint” means using force or restricting liberty of movement;

“secure children's home” means a children's home provided for the purpose of restricting liberty and approved for that purpose in accordance with regulation 3 of the Children (Secure Accommodation) Regulations 1991 <sup>M12</sup>;

“short breaks” has the meaning given in regulation 52;

“special educational needs” has the meaning given by section 20 of the Children and Families Act 2014;

“statement of purpose” means the statement compiled in accordance with regulation 16;

“statement of special educational needs” means a statement of special educational needs maintained in relation to the child under section 324 of the Education Act 1996 <sup>M13</sup>;

“youth justice child” means a child who is—

- (a) subject to a detention order within the meaning of section 562(1A)(a) of the Education Act 1996 <sup>M14</sup> or remanded under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 <sup>M15</sup>; and
- (b) detained in or remanded to a secure children's home.

(2) In these Regulations—

- (a) unless the context indicates otherwise, references to a child or to children are to a child or to children accommodated in the children's home;
- (b) references to a child who is looked after by a local authority have the meaning given by section 22 of the Children Act 1989 <sup>M16</sup>;
- (c) references to employing a person include—
  - (i) employing a person, whether or not for payment, and whether under a contract of service or a contract for services; and
  - (ii) allowing a person to work as a volunteer,

and references to an employee, a person being employed, staff or a person working in the home are to be construed accordingly;

- (d) references to a home are to be construed as references to a children's home;
- (e) references to a partnership<sup>M17</sup> do not include a limited liability partnership<sup>M18</sup>.

**F1** Words in reg. 2(1) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), [Sch. 3 para. 182](#)

#### Marginal Citations

- M4** [S.I. 2010/959](#), as amended by: [S.I. 2011/581](#); [2012/1479](#); [2013/235](#); [2013/706](#); [2013/984](#); [2013/3239](#); [2014/852](#); [2014/1556](#); [2014/1917](#) and [2014/2103](#).
- M5** [1989 c.41](#).
- M6** [2006 c.21](#). Section 18 of the [Childcare Act 2006](#) was amended by [S.I. 2010/813](#) and paragraph 19 of Schedule 1 to the [Children and Young Persons Act 2008 \(c.23, "the CYPA 2008"\)](#).
- M7** [1983 c.54](#). Section 34C of the [Medical Act 1983](#) was inserted by paragraph 10 of Schedule 1 to [S.I. 2010/234](#).
- M8** Section 25A of the [Children Act 1989](#) was inserted by section 10 of the [CYPA 2008](#).
- M9** Regulation 47C of [S.I. 2010/959](#) was inserted by [S.I. 2013/706](#).
- M10** [S.I. 2011/582](#).
- M11** [1984 c.24](#). Section 14 of the [Dentists Act 1984](#) was substituted by article 6 of [S.I. 2005/2011](#) and amended by regulation 111 of [S.I. 2007/3101](#).
- M12** [S.I. 1991/1505](#). Regulation 3 of [S.I. 1991/1505](#) was amended by [S.I. 1995/1398](#) and revoked in relation to Wales by [S.I. 2006/2986](#).
- M13** [1996 c.56](#). Section 324 of the [Education Act 1996](#) was amended by: section 140(1) of, and paragraph 77 of Schedule 30 to, the [School Standards and Framework Act 1998 \(c.31\)](#); section 9 of the [Special Educational Needs and Disability Act 2001 \(c.10\)](#); paragraph 43 of Schedule 21 to the [Education Act 2002 \(c.32\)](#) and paragraph 7 of Schedule 2 to [S.I. 2010/1158](#).
- M14** Subsection (1A) of the [Education Act 1996](#) was inserted by section 49 of the [Apprenticeships, Skills, Children and Learning Act 2009 \(c.22, "the ASCLA 2009"\)](#).
- M15** [2012 c.10 \("the LASPOA 2012"\)](#).
- M16** Section 22 of the [Children Act 1989](#) was amended by: section 2 of the [Children \(Leaving Care\) Act 2000 \(c.35\)](#); paragraph 19 of Schedule 5 to the [Local Government Act 2000 \(c.22\)](#); section 116 of the [Adoption and Children Act 2002 \(c.38, "the ACA 2002"\)](#); section 52 of the [Children Act 2004 \(c.31, "the CA 2004"\)](#); paragraph 6(a) to (c) of Schedule 3 to the [CYPA 2008](#) and section 99 of the [C&FA 2014](#).
- M17** "Partnership" is defined in section 1 of the [Partnership Act 1890 \(c.39\)](#). Section 1 was amended by: Part 10 of Schedule 1 to the [Statute Law \(Repeals\) Act 1998 \(c.43\)](#) and by paragraph 2 of Schedule 1 to [S.I. 2009/1941](#).
- M18** A limited liability partnership is a body corporate pursuant to section 1 of the [Limited Liability Partnerships Act 2000 \(c.12\)](#).

#### Excepted establishments **E+W**

3.—(1) For the purposes of the [Care Standards Act 2000](#), establishments of the following descriptions are excepted from being a children's home—

- (a) an institution within the further education sector, as defined by section 91(3) of the [Further and Higher Education Act 1992](#)<sup>M19</sup>;
- (b) a 16 to 19 Academy, as defined by section 1B of the [Academies Act 2010](#)<sup>M20</sup>;
- (c) an establishment—

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- (i) that would (apart from this sub-paragraph) be a home merely because it provides accommodation for children for the purposes of a holiday, or for cultural, educational, recreational or sporting activities; and
  - (ii) at which accommodation for any one child is not provided for those purposes for more than 27 days in any twelve month period;
  - (d) premises—
    - (i) that would (apart from this sub-paragraph) be a home merely because they are used to provide childcare; and
    - (ii) at which such childcare is not provided in relation to any one child for more than 27 days in any twelve month period;
  - (e) an establishment that would (apart from this sub-paragraph) be a home merely because it provides accommodation for children aged 16 and over—
    - (i) to enable the children to undergo an apprenticeship or training;
    - (ii) for the purposes of a holiday; or
    - (iii) for cultural, educational, recreational or sporting purposes;
  - (f) an establishment that would (apart from this sub-paragraph) be a home merely because it provides care and accommodation for children as a holiday scheme for disabled children, as defined in regulation 2 of the Residential Holiday Schemes for Disabled Children (England) Regulations 2013 <sup>M21</sup>;
  - (g) an approved bail hostel or an approved probation hostel;
  - (h) an institution provided for the detention of young offenders under section 43(1) of the Prison Act 1952 <sup>M22</sup>.
- (2) The exception in paragraph (1)(d) does not apply to any establishment or premises in which the children who are accommodated are wholly or mainly of a description falling within section 3(2) of the Care Standards Act 2000.
- (3) In determining for the purposes of paragraph (1)(d) whether accommodation has been provided for more than 27 days, no account is to be taken of any day which includes a period of 9 hours or more during which—
- (a) the child is in the care of a parent or relative; and
  - (b) childcare is not provided for that child.

#### **Marginal Citations**

**M19** 1992 c.13. Section 91(3) of the Further and Higher Education Act 1992 was amended by paragraph 13 of Schedule 8 to the ASCLA 2009.

**M20** 2010 c.32. Section 1B of the Academies Act 2010 was inserted by section 53 of the [Education Act 2011 \(c.21\)](#).

**M21** S.I. 2013/1394.

**M22** 1952 c.52. Section 43 of the Prison Act 1952 was amended by: section 11 to the [Criminal Justice Act 1982 \(c.48\)](#); section 170 of, and Schedules 15 and 16 to, the [Criminal Justice Act 1988 \(c.33\)](#); sections 5, 18 and 168 of, and Schedule 11 to, the [Criminal Justice and Public Order Act 1994 \(c.33\)](#); section 119 of, and paragraph 6 of Schedule 8 to, the [Crime and Disorder Act 1998 \(c.37\)](#); section 165 of, and paragraph 5 of Schedule 9 to, the [Powers of the Criminal Courts \(Sentencing\) Act 2000 \(c.6\)](#); section 41 of, and paragraph 36 of Schedule 3 to, the [Criminal Justice Act 2003 \(c.44\)](#); section 148 of, and paragraph 3 of Schedule 26 to, the [Criminal Justice and Immigration Act 2008 \(c.4, "the CJIA 2008"\)](#) and section 105 of, and paragraph 4 of Schedule 12 to, the LASPOA 2012. There are other amendments to section 43 that are not relevant to these Regulations. Sections 59 and 75 of,

and Schedule 8 to, the [Criminal Justice and Court Services Act 2000 \(c.43\)](#) also make provision for section 43(1)(a) to be repealed (on a date to be appointed).

## PART 2 **E+W**

### Quality standards and related matters

#### CHAPTER 1 **E+W**

##### Quality standards

##### Quality standards for children's homes **E+W**

4. The following standards (“the quality standards”) are prescribed for the purposes of section 22(1A) of the Care Standards Act 2000 in relation to children's homes—

- (a) the quality and purpose of care standard (see regulation 6);
- (b) the children's views, wishes and feelings standard (see regulation 7);
- (c) the education standard (see regulation 8);
- (d) the enjoyment and achievement standard (see regulation 9);
- (e) the health and well-being standard (see regulation 10);
- (f) the positive relationships standard (see regulation 11);
- (g) the protection of children standard (see regulation 12);
- (h) the leadership and management standard (see regulation 13);
- (i) the care planning standard (see regulation 14).

##### Engaging with the wider system to ensure children's needs are met **E+W**

5. In meeting the quality standards, the registered person must, and must ensure that staff—
- (a) seek to involve each child's placing authority effectively in the child's care, in accordance with the child's relevant plans;
  - (b) seek to secure the input and services required to meet each child's needs;
  - (c) if the registered person considers, or staff consider, a placing authority's or a relevant person's performance or response to be inadequate in relation to their role, challenge the placing authority or the relevant person to seek to ensure that each child's needs are met in accordance with the child's relevant plans; and
  - (d) seek to develop and maintain effective professional relationships with such persons, bodies or organisations as the registered person considers appropriate having regard to the range of needs of children for whom it is intended that the children's home is to provide care and accommodation.

##### The quality and purpose of care standard **E+W**

- 6.—(1) The quality and purpose of care standard is that children receive care from staff who—
- (a) understand the children's home's overall aims and the outcomes it seeks to achieve for children;
  - (b) use this understanding to deliver care that meets children's needs and supports them to fulfil their potential.

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- (2) In particular, the standard in paragraph (1) requires the registered person to—
- (a) understand and apply the home's statement of purpose;
  - (b) ensure that staff—
    - (i) understand and apply the home's statement of purpose;
    - (ii) protect and promote each child's welfare;
    - (iii) treat each child with dignity and respect;
    - (iv) provide personalised care that meets each child's needs, as recorded in the child's relevant plans, taking account of the child's background;
    - (v) help each child to understand and manage the impact of any experience of abuse or neglect;
    - (vi) help each child to develop resilience and skills that prepare the child to return home, to live in a new placement or to live independently as an adult;
    - (vii) provide to children living in the home the physical necessities they need in order to live there comfortably;
    - (viii) provide to children personal items that are appropriate for their age and understanding; and
    - (ix) make decisions about the day-to-day arrangements for each child, in accordance with the child's relevant plans, which give the child an appropriate degree of freedom and choice;
  - (c) ensure that the premises used for the purposes of the home are designed and furnished so as to—
    - (i) meet the needs of each child; and
    - (ii) enable each child to participate in the daily life of the home; and
  - (d) ensure that any care that is arranged or provided for a child that—
    - (i) relates to the child's development (within the meaning of section 17(11) of the Children Act 1989) or health; and
    - (ii) is not arranged or provided as part of the health service continued under section 1(1) of the National Health Service Act 2006 <sup>M23</sup>,satisfies the conditions in paragraph (3).
- (3) The conditions are—
- (a) that the care is approved, and kept under review throughout its duration, by the placing authority;
  - (b) that the care meets the child's needs;
  - (c) that the care is delivered by a person who—
    - (i) has the experience, knowledge and skills to deliver that care; and
    - (ii) is under the supervision of a person who is appropriately skilled and qualified to supervise that care; and
  - (d) that the registered person keeps the child's general medical practitioner informed, as necessary, about the progress of the care throughout its duration.



### Marginal Citations

**M23** 2006 c.41. Section 1 of the National Health Service Act 2006 was substituted by section 1 of the Health and Social Care Act 2012 (c.7).

## The children's views, wishes and feelings standard **E+W**

7.—(1) The children's views, wishes and feelings standard is that children receive care from staff who—

- (a) develop positive relationships with them;
- (b) engage with them; and
- (c) take their views, wishes and feelings into account in relation to matters affecting the children's care and welfare and their lives.

(2) In particular, the standard in paragraph (1) requires the registered person to—

- (a) ensure that staff—
  - (i) ascertain and consider each child's views, wishes and feelings, and balance these against what they judge to be in the child's best interests when making decisions about the child's care and welfare;
  - (ii) help each child to express views, wishes and feelings;
  - (iii) help each child to understand how the child's views, wishes and feelings have been taken into account and give the child reasons for decisions in relation to the child;
  - (iv) regularly consult children, and seek their feedback, about the quality of the home's care;
  - (v) help each child to understand how the child's privacy will be respected and the circumstances when it may have to be limited;
  - (vi) help each child to prepare for any review of the child's relevant plans and to make the child's views, wishes and feelings known for the purposes of that review; and
  - (vii) make each child aware of and, if necessary, remind them of each of the matters in sub-paragraph (d)(i) to (iii);
- (b) ensure that each child—
  - (i) is enabled to provide feedback to, and raise issues with, a relevant person about the support and services that the child receives;
  - (ii) has access to the home's children's guide, and the home's complaints procedure, when the child's placement in the home is agreed and throughout the child's stay in the home; and
  - (iii) is given appropriate advocacy support;
- (c) keep the children's guide and the home's complaints procedure under review and seek children's comments before revising either document;
- (d) ensure that an explanation is given to each child as soon as reasonably practicable after the child's arrival about—
  - (i) the children's guide;
  - (ii) how to make a complaint or representations in relation to the home or the care the child receives and how any such complaint or representations will be dealt with; and

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- (iii) what advocacy support or services are available to the child, how the child may access that support or those services and any entitlement the child may have to independent advocacy provision; and
- (e) ensure that the views of each relevant person are taken into account, so far as reasonably practicable, before making a decision about the care or welfare of a child.

### **The education standard** **E+W**

8.—(1) The education standard is that children make measurable progress towards achieving their educational potential and are helped to do so.

- (2) In particular, the standard in paragraph (1) requires the registered person to ensure—
  - (a) that staff—
    - (i) help each child to achieve the child's education and training targets, as recorded in the child's relevant plans;
    - (ii) support each child's learning and development, including helping the child to develop independent study skills and, where appropriate, helping the child to complete independent study;
    - (iii) understand the barriers to learning that each child may face and take appropriate action to help the child to overcome any such barriers;
    - (iv) help each child to understand the importance and value of education, learning, training and employment;
    - (v) promote opportunities for each child to learn informally;
    - (vi) maintain regular contact with each child's education and training provider, including engaging with the provider and the placing authority to support the child's education and training and to maximise the child's achievement;
    - (vii) raise any need for further assessment or specialist provision in relation to a child with the child's education or training provider and the child's placing authority;
    - (viii) help a child who is excluded from school, or who is of compulsory school age but not attending school, to access educational and training support throughout the period of exclusion or non-attendance and to return to school as soon as possible;
    - (ix) help each child who is above compulsory school age to participate in further education, training or employment and to prepare for future care, education or employment;
    - (x) help each child to attend education or training in accordance with the expectations in the child's relevant plans; and
  - (b) that each child has access to appropriate equipment, facilities and resources to support the child's learning.

### **The enjoyment and achievement standard** **E+W**

9.—(1) The enjoyment and achievement standard is that children take part in and benefit from a variety of activities that meet their needs and develop and reflect their creative, cultural, intellectual, physical and social interests and skills.

- (2) In particular, the standard in paragraph (1) requires the registered person to ensure—
  - (a) that staff help each child to—
    - (i) develop the child's interests and hobbies;

- (ii) participate in activities that the child enjoys and which meet and expand the child's interests and preferences; and
  - (iii) make a positive contribution to the home and the wider community; and
- (b) that each child has access to a range of activities that enable the child to pursue the child's interests and hobbies.

#### The health and well-being standard **E+W**

- 10.—(1) The health and well-being standard is that—
- (a) the health and well-being needs of children are met;
  - (b) children receive advice, services and support in relation to their health and well-being; and
  - (c) children are helped to lead healthy lifestyles.
- (2) In particular, the standard in paragraph (1) requires the registered person to ensure—
- (a) that staff help each child to—
    - (i) achieve the health and well-being outcomes that are recorded in the child's relevant plans;
    - (ii) understand the child's health and well-being needs and the options that are available in relation to the child's health and well-being, in a way that is appropriate to the child's age and understanding;
    - (iii) take part in activities, and attend any appointments, for the purpose of meeting the child's health and well-being needs; and
    - (iv) understand and develop skills to promote the child's well-being;
  - (b) that each child is registered as a patient with a general medical practitioner and a registered dental practitioner; and
  - (c) that each child has access to such dental, medical, nursing, psychiatric and psychological advice, treatment and other services as the child may require.

#### The positive relationships standard **E+W**

- 11.—(1) The positive relationships standard is that children are helped to develop, and to benefit from, relationships based on—
- (a) mutual respect and trust;
  - (b) an understanding about acceptable behaviour; and
  - (c) positive responses to other children and adults.
- (2) In particular, the standard in paragraph (1) requires the registered person to ensure—
- (a) that staff—
    - (i) meet each child's behavioural and emotional needs, as set out in the child's relevant plans;
    - (ii) help each child to develop socially aware behaviour;
    - (iii) encourage each child to take responsibility for the child's behaviour, in accordance with the child's age and understanding;
    - (iv) help each child to develop and practise skills to resolve conflicts positively and without harm to anyone;

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- (v) communicate to each child expectations about the child's behaviour and ensure that the child understands those expectations in accordance with the child's age and understanding;
  - (vi) help each child to understand, in a way that is appropriate according to the child's age and understanding, personal, sexual and social relationships, and how those relationships can be supportive or harmful;
  - (vii) help each child to develop the understanding and skills to recognise or withdraw from a damaging, exploitative or harmful relationship;
  - (viii) strive to gain each child's respect and trust;
  - (ix) understand how children's previous experiences and present emotions can be communicated through behaviour and have the competence and skills to interpret these and develop positive relationships with children;
  - (x) are provided with supervision and support to enable them to understand and manage their own feelings and responses to the behaviour and emotions of children, and to help children to do the same;
  - (xi) de-escalate confrontations with or between children, or potentially violent behaviour by children;
  - (xii) understand and communicate to children that bullying is unacceptable; and
  - (xiii) have the skills to recognise incidents or indications of bullying and how to deal with them; and
- (b) that each child is encouraged to build and maintain positive relationships with others.

### **The protection of children standard** **E+W**

**12.**—(1) The protection of children standard is that children are protected from harm and enabled to keep themselves safe.

- (2) In particular, the standard in paragraph (1) requires the registered person to ensure—
- (a) that staff—
    - (i) assess whether each child is at risk of harm, taking into account information in the child's relevant plans, and, if necessary, make arrangements to reduce the risk of any harm to the child;
    - (ii) help each child to understand how to keep safe;
    - (iii) have the skills to identify and act upon signs that a child is at risk of harm;
    - (iv) manage relationships between children to prevent them from harming each other;
    - (v) understand the roles and responsibilities in relation to protecting children that are assigned to them by the registered person;
    - (vi) take effective action whenever there is a serious concern about a child's welfare; and
    - (vii) are familiar with, and act in accordance with, the home's child protection policies;
  - (b) that the home's day-to-day care is arranged and delivered so as to keep each child safe and to protect each child effectively from harm;
  - (c) that the premises used for the purposes of the home are located so that children are effectively safeguarded;
  - (d) that the premises used for the purposes of the home are designed, furnished and maintained so as to protect each child from avoidable hazards to the child's health; and
  - (e) that the effectiveness of the home's child protection policies is monitored regularly.

### The leadership and management standard **E+W**

13.—(1) The leadership and management standard is that the registered person enables, inspires and leads a culture in relation to the children's home that—

- (a) helps children aspire to fulfil their potential; and
  - (b) promotes their welfare.
- (2) In particular, the standard in paragraph (1) requires the registered person to—
- (a) lead and manage the home in a way that is consistent with the approach and ethos, and delivers the outcomes, set out in the home's statement of purpose;
  - (b) ensure that staff work as a team where appropriate;
  - (c) ensure that staff have the experience, qualifications and skills to meet the needs of each child;
  - (d) ensure that the home has sufficient staff to provide care for each child;
  - (e) ensure that the home's workforce provides continuity of care to each child;
  - (f) understand the impact that the quality of care provided in the home is having on the progress and experiences of each child and use this understanding to inform the development of the quality of care provided in the home;
  - (g) demonstrate that practice in the home is informed and improved by taking into account and acting on—
    - (i) research and developments in relation to the ways in which the needs of children are best met; and
    - (ii) feedback on the experiences of children, including complaints received; and
  - (h) use monitoring and review systems to make continuous improvements in the quality of care provided in the home.

### The care planning standard **E+W**

14.—(1) The care planning standard is that children—

- (a) receive effectively planned care in or through the children's home; and
  - (b) have a positive experience of arriving at or moving on from the home.
- (2) In particular, the standard in paragraph (1) requires the registered person to ensure—
- (a) that children are admitted to the home only if their needs are within the range of needs of children for whom it is intended that the home is to provide care and accommodation, as set out in the home's statement of purpose;
  - (b) that arrangements are in place to—
    - (i) ensure the effective induction of each child into the home;
    - (ii) manage and review the placement of each child in the home; and
    - (iii) plan for, and help, each child to prepare to leave the home or to move into adult care in a way that is consistent with arrangements agreed with the child's placing authority;
  - (c) that each child's relevant plans are followed;
  - (d) that, subject to regulation 22 (contact and access to communications), contact between each child and the child's parents, relatives and friends, is promoted in accordance with the child's relevant plans;

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- (e) that the child's placing authority is contacted, and a review of that child's relevant plans is requested, if—
  - (i) the registered person considers that the child is at risk of harm or has concerns that the care provided for the child is inadequate to meet the child's needs;
  - (ii) the child is, or has been, persistently absent from the home without permission; or
  - (iii) the child requests a review of the child's relevant plans; and
- (f) that staff help each child to access and contribute to the records kept by the registered person in relation to the child.

### **Duty to have regard to statements of standards published under section 23 of the Care Standards Act 2000** E+W

**15.** If the Secretary of State publishes a statement of standards in relation to children's homes under section 23 of the Care Standards Act 2000, the registered person must have regard to the statement<sup>M24</sup>.

#### **Marginal Citations**

**M24** Section 23 was amended by: paragraphs 103 and 110 of Schedule 3 to the ACA 2002; paragraphs 16 and 21 of Schedule 9 to the [Health and Social Care \(Community Health and Standards\) Act 2003](#) (c.43); section 28 of the CYPA 2008 and section 104 of the C&FA 2014.

## **CHAPTER 2** E+W

### Matters related to the quality standards

#### **Statement of purpose** E+W

**16.—**(1) The registered person must compile in relation to the children's home a statement (“the statement of purpose”) which covers the matters listed in Schedule 1.

(2) The registered person must provide a copy of the statement of purpose to HMCI and make a copy of it available upon request to—

- (a) a person who works at the home;
- (b) a child, or a child for whom accommodation in the home is being considered;
- (c) a parent of a child, or a parent of a child for whom accommodation in the home is being considered;
- (d) a child's placing authority; and
- (e) in the case of a qualifying school, the Secretary of State.

(3) The registered person must—

- (a) keep the statement of purpose under review and, where appropriate, revise it; and
- (b) notify HMCI of any revisions and send HMCI a copy of the revised statement within 28 days of the revision.

(4) If a home has a website, the registered person must ensure that a copy of the statement of purpose is published on that website unless the registered person considers that such publication would prejudice the welfare of children in the home.

(5) Subject to paragraph (6), the registered person must ensure that the home is at all times conducted in a manner which is consistent with its statement of purpose.

(6) Nothing in paragraph (5) or regulation 46 (review of premises) requires or authorises the registered person to contravene or not comply with—

- (a) any other provision of these Regulations; or
- (b) any conditions in relation to the registration of the registered person under Part 2 of the Care Standards Act 2000.

#### **Placement plan for looked after child** **E+W**

17.—(1) This regulation applies to a child who is looked after by a local authority.

(2) The registered person must co-operate with the child's placing authority in agreeing and signing the child's placement plan.

(3) The registered person must comply with requests by the child's placing authority to—

- (a) provide the placing authority with information relating to the child; and
- (b) provide a suitable representative to attend any meeting the placing authority may hold about the child.

(4) Where the child is a youth justice child, when co-operating with the placing authority the registered person must have regard to any other plan or plans prepared by the placing authority in relation to the remand or sentencing of the child.

#### **Placement plan for a child who is not looked after** **E+W**

18.—(1) This regulation applies to a child who is not looked after by a local authority.

(2) If the child is placed in a children's home by a voluntary organisation, the registered person must co-operate with the voluntary organisation in agreeing and signing the child's placement plan prepared under regulations 4 and 5 of the Arrangements for Placement of Children by Voluntary Organisations and Others (England) Regulations 2011 (“the 2011 Regulations”).

(3) Paragraphs (4) to (9) apply if—

- (a) the child is not placed in a home by a voluntary organisation; and
- (b) the registered provider is not required to prepare a placement plan for the child under regulations 4 and 5 of the 2011 Regulations.

(4) The registered person must prepare a placement plan for the child before the child is admitted to the home or, if that is not reasonably practicable, as soon as possible after the child is admitted to the home.

(5) The placement plan must set out, in particular—

- (a) how, on a day-to-day basis, the child will be cared for, and the child's welfare safeguarded and promoted by the home;
- (b) the arrangements made for the child's care, education and health; and
- (c) any arrangements made for contact with the child's parents, relatives and friends.

(6) The registered person must consult the child's placing authority when preparing the placement plan.

(7) The registered person must keep under review and revise the placement plan as necessary.

(8) In preparing or reviewing the placement plan the registered person must—

- (a) so far as reasonably practicable, having regard to the child's age and understanding, seek and take account of the child's views, wishes and feelings; and



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- (b) if the child is a youth justice child, have regard to any other plan or plans prepared by the youth justice child's placing authority in relation to the remand or sentencing of the youth justice child.
- (9) The registered person must so far as is reasonably practicable—
  - (a) ensure that the placement plan is consistent with any plan for the child's care prepared by the child's placing authority; and
  - (b) comply with requests made by the child's placing authority to—
    - (i) provide the placing authority with information relating to the child; and
    - (ii) provide a suitable representative to attend any meeting the placing authority may hold about the child.

### **Behaviour management and discipline** E+W

**19.**—(1) No measure of control or discipline which is excessive, unreasonable or contrary to paragraph (2) may be used in relation to any child.

- (2) The following measures may not be used to discipline any child—
  - (a) any form of corporal punishment;
  - (b) any punishment involving the consumption or deprivation of food or drink;
  - (c) any restriction, other than one imposed by a court or in accordance with regulation 22 (contact and access to communications), on—
    - (i) a child's contact with parents, relatives or friends;
    - (ii) visits to the child by the child's parents, relatives or friends;
    - (iii) a child's communications with any persons listed in regulation 22(1) (contact and access to communications); or
    - (iv) a child's access to any internet-based or telephone helpline providing counselling for children;
  - (d) the use or withholding of medication, or medical or dental treatment;
  - (e) the intentional deprivation of sleep;
  - (f) imposing a financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;
  - (g) any intimate physical examination;
  - (h) withholding any aids or equipment needed by a disabled child;
  - (i) any measure involving a child imposing any measure against another child; or
  - (j) any measure involving punishing a group of children for the behaviour of an individual child.
- (3) Nothing in this regulation prohibits—
  - (a) the taking of any action by, or in accordance with the instructions of, a registered medical practitioner or a registered dental practitioner which is necessary to protect the health of the child; or
  - (b) taking any action that is necessary to prevent injury to any person or serious damage to property.

### **Restraint and deprivation of liberty** E+W

**20.**—(1) Restraint in relation to a child is only permitted for the purpose of preventing—



- (a) injury to any person (including the child);
  - (b) serious damage to the property of any person (including the child); or
  - (c) a child who is accommodated in a secure children's home from absconding from the home.
- (2) Restraint in relation to a child must be necessary and proportionate.
- (3) These Regulations do not prevent a child from being deprived of liberty where that deprivation is authorised in accordance with a court order.

### Privacy and access **E+W**

- 21.** The registered person must ensure that—
- (a) the privacy of children is appropriately protected;
  - (b) children can access all appropriate areas of the children's home's premises; and
  - (c) any limitation placed on a child's privacy or access to any area of the home's premises—
    - (i) is intended to safeguard each child accommodated in the home;
    - (ii) is necessary and proportionate;
    - (iii) is kept under review and, if necessary, revised; and
    - (iv) allows children as much freedom as is possible when balanced against the need to protect them and keep them safe.

### Contact and access to communications **E+W**

- 22.—**(1) The registered person must ensure that suitable facilities are provided within the children's home for any child accommodated there to meet privately at any reasonable time with the child's parents, friends, relatives or any of the following persons—
- (a) a solicitor or other adviser or advocate acting for the child;
  - (b) an officer of the Children and Family Court Advisory and Support Service appointed for the child;
  - (c) a social worker assigned to the child;
  - (d) a person authorised by HMCI;
  - (e) a person authorised by the local authority in whose area the home is located;
  - (f) a person appointed pursuant to section 23ZB (independent visitors for children looked after by a local authority) of the Children Act 1989 <sup>M25</sup>[<sup>F2</sup>or section 98 of the Social Services and Well-being (Wales) Act 2014 (independent visitors for looked after children)];
  - (g) a person authorised in accordance with section 80(2) of the Children Act 1989 by the Secretary of State to conduct an inspection in relation to the home and the children there;
  - (h) a person appointed under the Children Act 1989 Representations Procedure (England) Regulations 2006 <sup>M26</sup>;
  - (i) an independent person visiting the home under regulation 44.
- (2) The facilities may be at a different address if a certificate under section 51 of the Children Act 1989 <sup>M27</sup> is in force in relation to the home.
- (3) Subject to paragraph (5), the registered person must ensure that children are provided at all reasonable times with access to the following facilities which they may use without reference to persons working in the home—
- (a) a telephone on which to make and receive telephone calls in private; and

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- (b) facilities to send and receive post and, if the necessary facilities are provided for the use of children, electronic mail, in private.
- (4) The registered person must ensure that a disabled child accommodated in the home is provided with access to such aids and equipment as the child may require as a result of the child's disability in order to facilitate the child's communication with other persons.
- (5) If the registered person considers it to be necessary for the purpose of safeguarding or promoting the welfare of a child, the registered person may impose conditions, prohibitions or restrictions upon a child's—
  - (a) contact with parents, friends or relatives; or
  - (b) access to communications under paragraph (3).
- (6) No measure may be imposed by the registered person under paragraph (5) unless—
  - (a) the child's placing authority consents to the imposition of the measure; or
  - (b) the measure is imposed in an emergency, and full details are given to the placing authority within 24 hours of its imposition.
- (7) This regulation is subject to any requirements imposed by a court in relation to contact between a child and any other person.

**F2** Words in reg. 22(1)(f) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), [Sch. 3 para. 183](#)

#### Marginal Citations

- M25** Section 23ZB of the Children Act 1989 was inserted by section 16 of the CYPA 2008.
- M26** [S.I. 2006/1738](#), as amended by [S.I. 2013/985](#).
- M27** Section 51 of the Children Act 1989 was amended by: section 112 of, and paragraph 14 of Schedule 4 to, the Care Standards Act 2000 and [S.I. 2013/1465](#).

## Medicines **E+W**

- 23.**—(1) The registered person must make arrangements for the handling, recording, safekeeping, safe administration and disposal of medicines received into the children's home.
- (2) In particular the registered person must ensure that—
    - (a) medicines kept in the home are stored in a secure place so as to prevent any child from having unsupervised access to them;
    - (b) medicine which is prescribed for a child is administered as prescribed to the child for whom it is prescribed and to no other child; and
    - (c) a record is kept of the administration of medicine to each child.
  - (3) Paragraph (2) does not apply to medicine which—
    - (a) is stored by the child for whom it is provided in such a way that other persons are prevented from using it; and
    - (b) may be safely self-administered by that child.
  - (4) In this regulation, “prescribed” means—
    - (a) ordered for a patient, for provision to the patient, under or by virtue of the National Health Service Act 2006 or section 176(3) of the Health and Social Care (Community Health and Standards) Act 2003 <sup>M28</sup>; or

- (b) in a case not falling within sub-paragraph (a), prescribed for a patient in accordance with regulation 217 of the Human Medicines Regulations 2012 <sup>M29</sup>.

#### Marginal Citations

**M28** 2003 c.43.

**M29** S.I. 2012/1916, as amended by S.I. 2014/490.

### Monitoring and surveillance **E+W**

**24.**—(1) The registered person may only use devices for the monitoring or surveillance of children if—

- (a) the monitoring or surveillance is for the purpose of safeguarding and promoting the welfare of the child concerned, or other children;
- (b) the child's placing authority consents in writing to the monitoring or surveillance;
- (c) so far as reasonably practicable in the light of the child's age and understanding, the child is informed in advance of the intention to do the monitoring or surveillance; and
- (d) the monitoring or surveillance is no more intrusive than necessary, having regard to the child's need for privacy.

(2) This regulation is subject to any monitoring or surveillance requirements imposed by a court.

### Fire precautions **E+W**

**25.**—(1) After consultation with the fire and rescue authority, the registered person must—

- (a) take adequate precautions against the risk of fire, including the provision of suitable fire equipment in the children's home;
- (b) provide adequate means of escape from the home in the event of fire;
- (c) make arrangements for persons working at the home to receive suitable training in fire prevention; and
- (d) ensure, by means of fire drills and practices at suitable intervals, that persons working at the home and, so far as reasonably practicable, children are aware of the procedure to be followed in case of fire.

(2) If the Regulatory Reform (Fire Safety) Order 2005 <sup>M30</sup> applies to the home—

- (a) paragraph (1) does not apply; and
- (b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the home.

(3) In this regulation, “the fire and rescue authority” means the fire and rescue authority under the Fire and Rescue Services Act 2004 <sup>M31</sup> for the area in which the home is located.

#### Marginal Citations

**M30** S.I. 2005/1541, as amended by: S.I. 2006/484; 2007/320; 2008/960; paragraph 88 of Schedule 12 to the Energy Act 2013 (c.32); S.I. 2014/469.

**M31** 2004 c.21, as amended by paragraph 10 of Schedule 2 to the Civil Contingencies Act 2004 (c.36). See section 1 for the definition of “fire and rescue authority”.

**PART 3** **E+W**

## Registered persons

**Fitness of registered provider** **E+W**

**26.—(1)** An individual may only carry on a children's home if the individual satisfies the requirements in paragraph (5).

(2) An individual may only carry on a home with another individual or other individuals, otherwise than in a partnership, if that individual and each other individual satisfies the requirements in paragraph (5).

(3) A partnership may only carry on a home if each partner satisfies the requirements in paragraph (5).

(4) An organisation may only carry on a home if—

- (i) each director of the organisation, except for a director who is the responsible individual, who is involved in the carrying on of a home by that organisation satisfies the requirements in paragraph (6); and
- (ii) the organisation has notified HMCI of the name, address and position in the organisation of the responsible individual.

(5) The requirements are that—

- (a) the individual is of integrity and good character;
- (b) full and satisfactory information is available in relation to the individual in respect of each of the matters in Schedule 2;
- (c) the individual is mentally and physically fit to carry on the home; and
- (d) the individual is financially fit to carry on the home.

(6) The requirements are that—

- (a) the individual is of integrity and good character; and
- (b) full and satisfactory information is available in relation to the individual in respect of the matters in paragraphs 1 and 3 to 6 of Schedule 2.

(7) A responsible individual must—

- (a) satisfy the requirements in paragraph (5)(a) to (c); and
- (b) have the capacity, experience and skills to supervise the management of the home, or the homes, in respect of which the responsible individual is nominated.

(8) An individual is not financially fit to carry on a home—

- (a) if the individual—
  - (i) has been [<sup>F3</sup>made] bankrupt, sequestration of the individual's estate has been awarded or a moratorium period under a debt relief order (within the meaning of section 251A of the Insolvency Act 1986 <sup>M32</sup>) applies in relation to the individual; and
  - (ii) has not been discharged from the bankruptcy or the sequestration and the bankruptcy order has not been annulled or rescinded; or
- (b) if the individual has made a composition or arrangement with the individual's creditors and the individual has not been discharged in respect of the composition or arrangement.

(9) For the purposes of this regulation, “director” includes any individual who performs the functions of, or functions equivalent or similar to the functions of, a director, by whatever name called.

**F3** Word in reg. 26(8)(a)(i) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\)](#) and the [Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), reg. 1, **Sch. 2 para. 13**

**Marginal Citations**

**M32** [1986 c.45](#). Section 251A of the Insolvency Act 1986 was inserted by Schedule 17 to the [Tribunals, Courts and Enforcement Act 2007 \(c.15\)](#).

**Appointment of manager** **E+W**

- 27.**—(1) The registered provider must appoint a person to manage the children's home if—
- (a) there is no registered manager in respect of the home; and
  - (b) the registered provider—
    - (i) is an organisation or a partnership;
    - (ii) does not satisfy regulation 28; or
    - (iii) is not, or does not intend to be, in day-to-day charge of the home.
- (2) If the registered provider appoints a person to manage the home, the registered provider must, without delay, give HMCI notice of—
- (a) the name of the person so appointed; and
  - (b) the date on which the appointment takes effect.

**Fitness of manager** **E+W**

- 28.**—(1) A person may only manage a children's home if—
- (a) the person is of integrity and good character;
  - (b) having regard to the size of the home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children—
    - (i) the person has the appropriate experience, qualification and skills to manage the home effectively and lead the care of children; and
    - (ii) the person is physically and mentally fit to manage the home; and
  - (c) full and satisfactory information is available in relation to the person in respect of each of the matters in Schedule 2.
- (2) For the purposes of paragraph (1)(b)(i), a person has the appropriate experience and qualification if the person has—
- (a) within the last 5 years, worked for at least 2 years in a position relevant to the residential care of children;
  - (b) worked for at least one year in a role requiring the supervision and management of staff working in a care role; and
  - (c) by the relevant date, attained—
    - (i) the Level 5 Diploma in Leadership and Management for Residential Childcare (England) (“the Level 5 Diploma”); or
    - (ii) a qualification which the registered provider considers to be equivalent to the Level 5 Diploma.
- (3) The relevant date is—

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- (a) in the case of a person who starts managing a home after 1st April 2014, the date which falls 3 years after the date on which that person started managing a home; or
  - (b) in the case of a person who was managing a home on 1st April 2014, 1st April 2017.
- (4) The registered provider may defer the relevant date if the person—
- (a) does not manage, or has not managed, a home for a prolonged period; or
  - (b) manages, or has managed, a home on a part-time basis.

#### **Continuing professional development: registered person and responsible individual** **E+W**

**29.**—(1) If the registered provider is an individual, the individual must undertake such continuing professional development as is necessary to ensure that the individual has the skills needed for carrying on the children's home.

(2) If the registered provider is an organisation, the organisation must ensure that the responsible individual undertakes such continuing professional development as is necessary to ensure that the responsible individual has the skills needed for supervising the management of the home.

(3) If the registered provider is a partnership, the partnership must ensure that one of the partners undertakes such continuing professional development as is necessary to ensure that the partner has the skills needed for carrying on the home.

(4) The registered manager must undertake such continuing professional development as is necessary to ensure that the registered manager has the skills needed for managing the home.

#### **Compliance with regulations** **E+W**

**30.** If there is more than one registered person in respect of a children's home, anything which is required of a registered person by these Regulations does not have to be done by each registered person if it is, or has been, done by one of them.

## **PART 4** **E+W**

### Staffing

#### **Staffing of children's homes** **E+W**

**31.**—(1) The registered person must ensure that the employment of any person on a temporary basis at the children's home does not prevent children from receiving such continuity of care as is reasonable to meet their needs.

- (2) The registered person must ensure that—
- (a) at all times, at least one person on duty at the home has a suitable first aid qualification;
  - (b) any person who works as a nurse at the home is a registered nurse.

#### **Fitness of workers** **E+W**

**32.**—(1) The registered person must recruit staff using recruitment procedures that are designed to ensure children's safety.

- (2) The registered person may only—
- (a) employ an individual to work at the children's home; or

- (b) if an individual is employed by a person other than the registered person to work at the home in a position in which the individual may have regular contact with children, allow that individual to work at the home,
- if the individual satisfies the requirements in paragraph (3).
- (3) The requirements are that—
- (a) the individual is of integrity and good character;
  - (b) the individual has the appropriate experience, qualification and skills for the work that the individual is to perform;
  - (c) the individual is mentally and physically fit for the purposes of the work that the individual is to perform; and
  - (d) full and satisfactory information is available in relation to the individual in respect of each of the matters in Schedule 2.
- (4) For the purposes of paragraph (3)(b), an individual who works in the home in a care role has the appropriate qualification if, by the relevant date, the individual has attained—
- (a) the Level 3 Diploma for Residential Childcare (England) (“the Level 3 Diploma”); or
  - (b) a qualification which the registered person considers to be equivalent to the Level 3 Diploma.
- (5) The relevant date is—
- (a) in the case of an individual who starts working in a care role in a home after 1st April 2014, the date which falls 2 years after the date on which the individual started working in a care role in a home; or
  - (b) in the case of an individual who was working in a care role in a home on 1st April 2014, 1st April 2016.
- (6) The registered person may defer the relevant date if the individual—
- (a) does not work, or has not worked, in a care role in a home for a prolonged period; or
  - (b) works, or has worked, in a care role in a home on a part-time basis.
- (7) The registered person may permit an individual to start work at the home despite the fact that the requirement in paragraph (3)(d) has not been met if—
- (a) the registered person has taken all reasonable steps to obtain full information about each of the matters in Schedule 2 in respect of the individual, but the enquiries in relation to any of the matters in paragraphs 3 to 6 of Schedule 2 are incomplete;
  - (b) full and satisfactory information in respect of the individual has been obtained in relation to the matters in paragraphs 1 and 2 of Schedule 2;
  - (c) the registered person considers that the circumstances are exceptional; and
  - (d) the registered person ensures that the individual is appropriately supervised while carrying out the individual's duties, pending receipt of any outstanding information on the matters in paragraphs 3 to 6 of Schedule 2, which is then considered satisfactory by the registered person.
- (8) The registered person must take reasonable steps to ensure that any individual who is working at the home and who does not fall within paragraph (2)(a) and (b) is appropriately supervised while carrying out the individual's duties.

### Employment of staff **E+W**

- 33.**—(1) The registered person must—
- (a) ensure that each employee completes an appropriate induction;



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- (b) ensure that each permanent appointment of an employee is subject to the satisfactory completion of a period of probation; and
  - (c) provide each employee with a job description outlining the employee's responsibilities.
- (2) The registered person must operate a disciplinary procedure which, in particular—
- (a) provides for the suspension from work of an employee if necessary in the interests of the safety or welfare of children; and
  - (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse, whether past or present, in relation to a child to the appropriate person is a ground on which disciplinary proceedings may be instituted.
- (3) For the purposes of this regulation, “the appropriate person” is the registered person, an officer of HMCI, an officer of the local authority in whose area the home is located or a police officer.
- (4) The registered person must ensure that all employees—
- (a) undertake appropriate continuing professional development;
  - (b) receive practice-related supervision by a person with appropriate experience; and
  - (c) have their performance and fitness to perform their roles appraised at least once every year.

## PART 5 E+W

### Policies, records, complaints and notifications

#### **Policies for the protection of children** E+W

- 34.**—(1) The registered person must prepare and implement a policy which—
- (a) is intended to safeguard children accommodated in the children's home from abuse or neglect; and
  - (b) sets out the procedure to be followed in the event of an allegation of abuse or neglect.
- (2) The procedure to be followed in the event of an allegation of abuse or neglect must, in particular—
- (a) provide for liaison and co-operation with any local authority which are, or may be, making a child protection enquiry in relation to a child accommodated in the home;
  - (b) provide for the prompt referral of an allegation about current or ongoing abuse or neglect in relation to a child to the placing authority and, if different, the local authority in whose area the home is located;
  - (c) provide for the prompt referral of an allegation about past abuse or neglect in relation to a child to the placing authority and, if different, the local authority in whose area the alleged abuse or neglect occurred;
  - (d) provide for records to be kept of an allegation of abuse or neglect, and the action taken in response;
  - (e) describe the measures which may be necessary to protect children following an allegation of abuse or neglect; and
  - (f) describe how and to whom staff are to report, without delay, any concern about abuse or neglect of a child.
- (3) The registered person must prepare and implement a policy for the prevention of bullying in the home, which must in particular set out the procedure for dealing with an allegation of bullying.



- (4) The registered person must prepare and implement a policy (“the missing child policy”) setting out—
- (a) the steps taken, and to be taken, to prevent children from being absent without permission; and
  - (b) the procedures to be followed, and the roles and responsibilities of persons working at the home, in relation to a child who is, or has been, so absent.
- (5) Before implementing, or making an amendment which the registered person considers to be substantive to, the missing child policy, the registered person must—
- (a) consult, and take into account the views of, each relevant person; and
  - (b) have regard to any relevant local authority or police protocols on missing children.
- (6) The registered person must keep under review and, as necessary, revise the home's child protection policies.

### **Behaviour management policies and records** **E+W**

- 35.**—(1) The registered person must prepare and implement a policy (“the behaviour management policy”) which sets out—
- (a) how appropriate behaviour is to be promoted in the children's home; and
  - (b) the measures of control, discipline and restraint which may be used in relation to children in the home.
- (2) The registered person must keep the behaviour management policy under review and, where appropriate, revise it.
- (3) The registered person must ensure that—
- (a) within 24 hours of the use of a measure of control, discipline or restraint in relation to a child in the home, a record is made which includes—
    - (i) the name of the child;
    - (ii) details of the child's behaviour leading to the use of the measure;
    - (iii) the date, time and location of the use of the measure;
    - (iv) a description of the measure and its duration;
    - (v) details of any methods used or steps taken to avoid the need to use the measure;
    - (vi) the name of the person who used the measure (“the user”), and of any other person present when the measure was used;
    - (vii) the effectiveness and any consequences of the use of the measure; and
    - (viii) a description of any injury to the child or any other person, and any medical treatment administered, as a result of the measure;
  - (b) within 48 hours of the use of the measure, the registered person, or a person who is authorised by the registered person to do so (“the authorised person”)—
    - (i) has spoken to the user about the measure; and
    - (ii) has signed the record to confirm it is accurate; and
  - (c) within 5 days of the use of the measure, the registered person or the authorised person adds to the record confirmation that they have spoken to the child about the measure.
- (4) Paragraph (3) does not apply in relation to restraint that is planned or provided for as a matter of routine in the child's EHC plan or statement of special educational needs.

**Children's case records** **E+W**

- 36.**—(1) The registered person must maintain records (“case records”) for each child which—
- (a) include the information and documents listed in Schedule 3 in relation to each child;
  - (b) are kept up to date; and
  - (c) are signed and dated by the author of each entry.
- (2) Case records must be kept—
- (a) if the child dies before attaining the age of 18, for 15 years from the date of the child's death;
  - (b) in cases not falling within sub-paragraph (a), for 75 years from the child's date of birth;
  - (c) securely in the children's home during the period when the child to whom the case records relate is accommodated there; and
  - (d) in a secure place after the child has ceased to be accommodated in the home.
- (3) When a children's home is to close or to cease to operate as such (“the closing home”), the registered provider must comply with paragraphs (4) and (5).
- (4) If the registered provider of the closing home—
- (a) is the registered provider of one other children's home, the registered provider must transfer each child's case records which are held in relation to the closing home to the other home;
  - (b) is the registered provider of more than one other home, the registered provider must transfer the case records to the other home which is nearest to the closing home.
- (5) If the registered provider is not, or will not continue to be, the registered provider of another home, the registered provider must—
- (a) transfer the case records for each child who is looked after by a local authority to the placing authority for the child to whom the records relate;
  - (b) transfer the case records for each child who is not looked after by a local authority—
    - (i) if the child has an EHC plan or a statement of special educational needs, to the local authority with responsibility for the EHC plan or for maintaining the statement of special educational needs for the child to whom the records relate; or
    - (ii) if the child does not have an EHC plan or a statement of special educational needs, to the placing authority for the child to whom the records relate.

**Other records** **E+W**

- 37.**—(1) Schedule 4 sets out the other information that the registered person must keep in relation to a children's home.
- (2) The registered person must—
- (a) maintain in the home the records in Schedule 4;
  - (b) ensure that the records are kept up to date; and
  - (c) retain the records for at least 15 years from the date of the last entry.

**Storage of records etc.** **E+W**

- 38.** The registered person must ensure that the following items, which may be kept in electronic form, are kept in an accessible manner—
- (a) the statement of purpose;

- (b) the children's guide;
- (c) placement plans for children who are not looked after (see regulation 18);
- (d) the policy for safeguarding children (see regulation 34);
- (e) the policy for preventing bullying (see regulation 34);
- (f) the missing child policy (see regulation 34);
- (g) the behaviour management policy (see regulation 35);
- (h) records of the use of measures of control, discipline or restraint (see regulation 35);
- (i) children's case records (see regulation 36);
- (j) other records (see regulation 37);
- (k) the procedure for considering complaints (see regulation 39);
- (l) records of complaints (see regulation 39);
- (m) the independent person's reports (see regulation 44);
- (n) quality of care reviews (see regulation 45);
- (o) annual reviews of the appropriateness and suitability of the location of the home's premises (see regulation 46).

#### Complaints and representations **E+W**

**39.**—(1) Subject to paragraph (6), the registered person must establish a procedure for considering complaints made by or on behalf of children.

(2) In particular, the procedure must provide that no person who is the subject of a complaint takes any part in its consideration or investigation, except at the informal resolution stage if the registered person considers it appropriate.

(3) The registered person must ensure that a record is made of any complaint, the action taken in response, and the outcome of any investigation.

(4) The registered person must ensure that no child is subject to any reprisal for making a complaint or representation.

(5) The registered person must supply to HMCI, at HMCI's request, a statement containing a summary of any complaints made during the preceding twelve months and the action that was taken in response to each complaint.

(6) This regulation (apart from paragraph (4)) does not apply to any matter to which the Children Act 1989 Representations Procedure (England) Regulations 2006 apply.

#### Notification of a serious event **E+W**

**40.**—(1) If a child dies, the registered person must without delay notify—

- (a) HMCI;
- (b) the placing authority;
- (c) the Secretary of State (if the Secretary of State is not the placing authority);
- (d) the local authority in whose area the children's home is located (if that local authority is not the placing authority);
- (e) the clinical commissioning group (as defined in section 14D of the National Health Service Act 2006) for the area in which the home is located;
- (f) if the child was accommodated in a secure children's home, the Prisons and Probation Ombudsman for England and Wales (“the PPO”); and

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- (g) each other relevant person.
- (2) If a child accommodated in a secure children's home dies, the registered person must allow the PPO to investigate the death by—
- (a) granting the PPO access to—
    - (i) the premises of the home; and
    - (ii) the home's documents and records;
  - (b) allowing the PPO to take away from the premises, securely, copies of any documents or records provided under sub-paragraph (a)(ii); and
  - (c) if they consent, allowing the PPO to interview in private any children, parents or relatives, or persons working at the home.
- (3) If there is a referral of a person working in the home pursuant to section 35 (Regulated activity providers: duty to refer) of the Safeguarding Vulnerable Groups Act 2006<sup>M33</sup>, the registered person must without delay notify—
- (a) HMCI;
  - (b) the placing authority; and
  - (c) each other relevant person.
- (4) The registered person must notify HMCI and each other relevant person without delay if—
- (a) a child is involved in or subject to, or is suspected of being involved in or subject to, sexual exploitation;
  - (b) an incident requiring police involvement occurs in relation to a child which the registered person considers to be serious;
  - (c) there is an allegation of abuse against the home or a person working there;
  - (d) a child protection enquiry involving a child —
    - (i) is instigated; or
    - (ii) concludes (in which case, the notification must include the outcome of the child protection enquiry); or
  - (e) there is any other incident relating to a child which the registered person considers to be serious.
- (5) A notification made under this regulation—
- (a) must include details of—
    - (i) the matter;
    - (ii) the other persons, bodies or organisations (if any) who or which have been notified; and
    - (iii) any actions taken by the registered person as a result of the matter;
  - (b) must be made or confirmed in writing.
- (6) In this regulation, references to the PPO include a person appointed by, or working on behalf of, the PPO for the purposes of an investigation under paragraph (2).

#### **Marginal Citations**

**M33** 2006 c.47 (“the SVGA 2006”). Section 35 was amended by: section 115 of, and Schedules 9 and 10 to, the Protection of Freedoms Act 2012 (c.9, “the PoFA 2012”) and S.I. 2012/3006.

## Notification with respect to children admitted into, or discharged from, a children's home **E** **+W**

**41.**—(1) The registered person must notify, without delay, the local authority for the area in which the children's home is located of every admission of a child into the home and every discharge of a child from the home.

(2) The registered person is not required to notify the local authority in paragraph (1) if that local authority is also the placing authority for the child in question.

(3) A notification under this regulation must be in writing and must state—

- (a) the child's name and date of birth;
- (b) whether the child is provided with accommodation under section 20 or 21 of the Children Act 1989 <sup>M34</sup><sup>F4</sup> or, in the case of a child placed by a local authority in Wales, whether the child is provided with accommodation under section 76 or 77 of the Social Services and Well-being (Wales) Act 2014];
- (c) whether the child is subject to a care or supervision order under section 31 of the Children Act 1989 <sup>M35</sup>;
- (d) the contact details for—
  - (i) the child's placing authority; and
  - (ii) the independent reviewing officer appointed for the child's case; and
- (e) whether the child has an EHC plan or a statement of special educational needs and, if so, details of the local authority with responsibility for the EHC plan or for maintaining the statement of special educational needs.

**F4** Words in reg. 41(3)(b) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), [Sch. 3 para. 184](#)

### Marginal Citations

- M34** Section 20 of the Children Act 1989 was amended by: paragraphs 54 and 59 of Schedule 3 to the ACA 2002; section 53 of the CA 2004; and paragraphs 1 and 28 of Schedule 2 to the C&FA 2014. Section 21 of the Children Act 1989 was amended by: paragraph 36 of Schedule 9 to the [National Health Service and Community Care Act 1990 \(c.19\)](#); [S.I. 2000/90](#); paragraph 59 to Schedule 3 of the ACA 2002; section 53 of the CA 2004; [S.I. 2007/961](#); paragraphs 34 and 105 of Schedule 4 to the CJIA 2008; paragraph 5 of Schedule 3 the CYPA 2008; Schedules 7 and 8 to the [Policing and Crime Act 2009 \(c.26, "the PCA 2009"\)](#); paragraph 48 of Schedule 5 to the Health and Social Care Act 2012; paragraph 24 to Schedule 12 the LASPOA 2012 and paragraph 28 of Schedule 2 to the C&FA 2014.
- M35** Section 31 of the Children Act 1989 was amended by: Schedules 4, 7 and 8 to the Criminal Justice and Court Services Act 2000; section 120 of the ACA 2002; paragraph 35 of Schedule 4 to the CJIA 2008; [S.I. 2013/1465](#) and section 15 of the C&FA 2014.

## Notification of offences **E+W**

**42.**—(1) If a person listed in paragraph (2) is convicted of a criminal offence, whether in England and Wales or elsewhere, that person must without delay give notice in writing to HMCI of—

- (a) the date and place of the conviction;
- (b) the offence; and
- (c) the penalty imposed for the offence.

(2) The persons are—

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- (a) the registered provider;
- (b) the registered manager;
- (c) the responsible individual (if one is nominated);
- (d) if the registered provider is an organisation, any director of that organisation;
- (e) if the registered provider is a partnership, any partner in that partnership.

## PART 6 E+W

### Monitoring and reviewing children's homes

#### Appointment of independent person E+W

**43.**—(1) The registered provider must appoint, at the registered provider's expense, a person (“the independent person”) to visit and report on the children's home carried on by the registered provider.

(2) If the registered provider carries on more than one home, the registered provider may appoint the same person as the independent person for all or any of those homes.

(3) Subject to paragraphs (4) and (5), the registered provider may not appoint the following as an independent person—

- (a) if the registered provider is a local authority, a person who is employed by that local authority in connection with the carrying on of the authority's social services functions (as defined by section 1A of the Local Authority Social Services Act 1970 <sup>M36</sup>) relating to children;
- (b) if the registered provider is not a local authority, a person who is employed for payment by the registered provider;
- (c) a person involved in preparing the care plan of any child placed at the home, or a person responsible for managing or supervising that person;
- (d) a person responsible for commissioning or financing services provided by the home;
- (e) a person with a financial interest in the home;
- (f) the responsible individual (if one is nominated); or
- (g) a person who has, or has had, a connection with—
  - (i) the registered person;
  - (ii) a person working at the home; or
  - (iii) a child,

which the registered provider considers to give rise to doubts about that person's impartiality (for the purposes of producing the independent person's report – see regulation 44).

(4) An employee of the registered provider is not, by reason only of that employment, disqualified under paragraph (3)(a), (b) or (g) from appointment as an independent person if the employee is employed solely to examine and scrutinise critically—

- (a) the way that a home is carried on or managed; and
- (b) the quality of care provided for children.

(5) If the registered provider is a local authority, a person appointed by the authority as an independent reviewing officer is not, by reason only of that appointment, disqualified under paragraph (3)(a), (c) or (g) from appointment as an independent person in relation to a home carried on by that authority or any other authority.

(6) The independent person must declare any actual or potential conflict of interest (whether of the type mentioned in paragraph (3) or otherwise) to the registered provider without delay and, if reasonably practicable, before conducting a visit to the home.

(7) If the registered provider becomes aware of a potential conflict of interest in relation to the independent person before or during the independent person visiting the home (see regulation 44), the registered provider must—

- (a) make arrangements to cancel the visit without delay; and
- (b) appoint a different independent person to visit the home.

#### Marginal Citations

**M36** 1970 c.42. Section 1A of the Local Authority Social Services Act 1970 was inserted by section 102 of the [Local Government Act 2000 \(c.22\)](#).

### Independent person: visits and reports **E+W**

**44.**—(1) The registered person must ensure that an independent person visits the children's home at least once each month.

(2) When the independent person is carrying out a visit, the registered person must help the independent person—

- (a) if they consent, to interview in private such of the children, their parents, relatives and persons working at the home as the independent person requires; and
- (b) to inspect the premises of the home and such of the home's records (except for a child's case records, unless the child and the child's placing authority consent) as the independent person requires.

(3) A visit by the independent person to the home may be unannounced.

(4) The independent person must produce a report about a visit (“the independent person's report”) which sets out, in particular, the independent person's opinion as to whether—

- (a) children are effectively safeguarded; and
- (b) the conduct of the home promotes children's well-being.

(5) The independent person's report may recommend actions that the registered person may take in relation to the home and timescales within which the registered person must consider whether or not to take those actions.

(6) If the independent person becomes aware of a potential conflict of interest (whether under regulation 43(3) or otherwise) after a visit to the home, the independent person must include in the independent person's report—

- (a) details of the conflict of interest; and
- (b) the reasons why the independent person did not notify the registered provider of the conflict of interest before the visit.

(7) The independent person must provide a copy of the independent person's report to—

- (a) HMCI;
- (b) upon request, the local authority for the area in which the home is located;
- (c) the placing authorities of children;
- (d) the registered provider and, if applicable, the registered manager; and
- (e) the responsible individual (if one is nominated).



**Review of quality of care** **E+W**

**45.**—(1) The registered person must complete a review of the quality of care provided for children (“a quality of care review”) at least once every 6 months.

(2) In order to complete a quality of care review the registered person must establish and maintain a system for monitoring, reviewing and evaluating—

- (a) the quality of care provided for children;
- (b) the feedback and opinions of children about the children's home, its facilities and the quality of care they receive in it; and
- (c) any actions that the registered person considers necessary in order to improve or maintain the quality of care provided for children.

(3) After completing a quality of care review, the registered person must produce a written report about the quality of care review and the actions which the registered person intends to take as a result of the quality of care review (“the quality of care review report”).

(4) The registered person must—

- (a) supply to HMCI a copy of the quality of care review report within 28 days of the date on which the quality of care review is completed; and
- (b) make a copy of the quality of care review report available on request to a placing authority, if the placing authority is not the parent of a child accommodated in the home.

(5) The system referred to in paragraph (2) must provide for ascertaining and considering the opinions of children, their parents, placing authorities and staff.

**Review of premises** **E+W**

**46.**—(1) The registered person must review the appropriateness and suitability of the location of the premises used for the purposes of the children's home at least once in each calendar year taking into account the requirement in regulation 12(2)(c) (the protection of children standard).

(2) When conducting the review, the registered person must consult, and take into account the views of, each relevant person.

**Financial position** **E+W**

**47.**—(1) The registered provider must carry on the children's home in such manner as is likely to ensure that the home will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person must—

- (a) ensure that adequate financial records are maintained and kept up to date in respect of the home; and
- (b) supply a copy of the financial records and most recent accounts to HMCI at HMCI's request.

(3) The registered person must provide HMCI with such information as HMCI may require for the purpose of considering the financial viability of the home, including—

- (a) the annual accounts of the home certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider's financial standing;
- (c) information as to the financing, and financial resources, of the home and the registered provider;



- (d) where the registered provider is a company, information as to any of its associated companies; and
  - (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by the registered provider in relation to the home in respect of damage, death, injury, public liability or other loss.
- (4) For the purposes of this regulation a company is an associated company of another company if one of the companies has control of the other company or both companies are under the control of the same person.

## PART 7 **E+W**

### Miscellaneous

#### Notice of absence **E+W**

**48.**—(1) If the person who is in day-to-day charge of the children's home proposes to be absent from the home for a continuous period of 28 days or more, the registered person must give notice in writing to HMCI of the proposed absence.

(2) Except in the case of an emergency or unforeseen absence, a notice under paragraph (1) must—

- (a) be given no later than one month before the proposed absence commences, or within such shorter period as may be agreed with HMCI; and
- (b) specify with respect to the proposed absence—
  - (i) its length or expected length;
  - (ii) the reason for it;
  - (iii) the arrangements which have been made for running the home during the absence;
  - (iv) the address, name and qualifications of the person who will be responsible for the home during the absence; and
  - (v) in the case of the absence of the registered manager, the arrangements that have been, or are proposed to be, made for appointing another person to manage the home during the absence, including the proposed date by which the appointment is to be made.

(3) If the absence arises as a result of an emergency or is unforeseen, the registered person must give notice of the absence—

- (a) within one week of the beginning of the absence; and
- (b) specifying the matters in paragraph (2)(b).

(4) If the notice required under paragraph (2) or (3) has not been given as required, it must be given without delay.

(5) The registered person must notify HMCI of the return to duty of the person in day-to-day charge of the home not later than 7 days after the date of that person's return.

#### Notice of changes **E+W**

**49.** The registered person must give notice in writing to HMCI, as soon as it is reasonably practicable to do so, if any of the following events take place or are expected by the registered person to take place—

- (a) a person other than the registered person carries on or manages the children's home;

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- (b) a person ceases to carry on or manage the home;
- (c) if the registered provider is an individual—
  - (i) the individual's name changes;
  - (ii) a trustee in bankruptcy is appointed;
  - (iii) the individual makes a composition or arrangement with the individual's creditors;
- (d) if the registered provider is a partnership, any change in the membership of the partnership;
- (e) if the registered provider is an organisation—
  - (i) the organisation's name or address changes;
  - (ii) any change of director, manager, secretary or other similar officer of the organisation;
  - (iii) any change in the identity of the responsible individual;
- (f) if the registered provider is a company, a liquidator or a provisional liquidator, a manager or a receiver is appointed;
- (g) the premises of the home are significantly altered or extended, or additional premises are acquired.

#### **Appointment of liquidators etc.** E+W

- 50.**—(1) This regulation applies to a person appointed (“the appointed person”) as—
- (a) the manager or receiver of the property of a company or partnership which is the registered provider of a children's home;
  - (b) a liquidator or provisional liquidator of a company which is the registered provider of a home; or
  - (c) the trustee in bankruptcy of the registered provider of a home.
- (2) The appointed person must—
- (a) have regard to children's welfare when acting in relation to the operation of the home and its future;
  - (b) without delay, notify HMCI of the appointed person's appointment and the reasons for it;
  - (c) if there is no registered manager, appoint a person to take day-to-day charge of the home; and
  - (d) not more than 28 days after the appointed person's appointment, notify HMCI of the appointed person's intentions regarding the future operation of the home.

#### **Death of registered person** E+W

- 51.**—(1) If—
- (a) more than one person is registered in respect of a children's home; and
  - (b) a registered person dies,

the other registered person must notify HMCI of the death in writing without delay.

(2) If only one person is registered in respect of a home, and that person dies, that person's personal representatives must notify HMCI in writing—

- (a) without delay, of the death; and
  - (b) within 28 days, of their intentions regarding the future running of the home.
- (3) The personal representatives of a deceased registered provider—
- (a) may carry on the home without being registered in respect of it—

- (i) for a period not exceeding 28 days;
    - (ii) for such further period as may be determined in accordance with paragraph (4);
  - (b) must appoint a person to take day-to-day charge of the home during any period in which they carry on the home without being registered in respect of it; and
  - (c) must have regard to children's welfare when acting in relation to the operation of the home and its future.
- (4) HMCI—
- (a) may extend the period in paragraph (3)(a)(i) by such further period, not exceeding one year, as HMCI may determine; and
  - (b) must notify any such determination to the personal representatives in writing.

### **Application of the Regulations to short breaks and secure children's homes with modifications** E+W

**52.**—(1) In the circumstances set out in paragraph (2), these Regulations apply in relation to a child with the modifications set out in paragraphs 1 and 2 of Schedule 5.

- (2) The circumstances are that—
- (a) the child is not in the care of a local authority; and
  - (b) the child is placed in a series of short term placements within children's homes (“short breaks”), and—
    - (i) no single placement is intended to last for more than 17 days;
    - (ii) at the end of each placement the child returns to the care of the child's parent or a person who is not the child's parent but who has parental responsibility for the child; and
    - (iii) the short breaks to date do not exceed 75 days in total in any twelve month period.

(3) These Regulations apply in relation to secure children's homes with the modifications set out in paragraphs 3 to 6 of Schedule 5.

### **Amendments** E+W

**53.**—(1) The Care Standards Act 2000 (Registration) (England) Regulations 2010 <sup>M37</sup> are amended as follows.

- (2) In regulation 2(1) (*interpretation*)—
- (a) in the definition of “behaviour management policy”, for “regulation 17(2) of the Children's Homes Regulations 2001” substitute “ regulation 35(1) of the Children's Homes (England) Regulations 2015 ”;
  - (b) in the definition of “children's guide”, for “regulation 4(3) (statement of purpose and children's guide) of the Children's Homes Regulations 2001” substitute “ regulation 2(1) of the Children's Homes (England) Regulations 2015 ”;
  - (c) in the definition of “placement plan”, for “means the written plan prepared in accordance with regulation 12 or 12A of the Children's Homes Regulations 2001” substitute “ has the meaning given in regulation 2(1) of the Children's Homes (England) Regulations 2015 ”;
  - (d) in the definition of “statement of purpose”, for “regulation 4(1) of the Children's Homes Regulations 2001” substitute “ regulation 16(1) of the Children's Homes (England) Regulations 2015 ”.

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*Changes to legislation: There are currently no known outstanding effects for the The Children's Homes (England) Regulations 2015. (See end of Document for details)*

(3) In paragraph 13(b) of Schedule 1 for “regulation 31(1A) of the Children's Homes Regulations 2001” substitute “ regulations 12(2)(c) and 46 of the Children's Homes (England) Regulations 2015 ”.

**Marginal Citations**

**M37** [S.I. 2010/2130](#), as amended by [S.I. 2013/446](#); [2013/706](#); [2013/1394](#) and [2013/3239](#).

**E+W**

**54.** In Schedule 1 to the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 <sup>M38</sup>, for “Children's Homes Regulations 2001” substitute “ Children's Homes (England) Regulations 2015 ”.

**Marginal Citations**

**M38** [S.I. 2006/373](#), to which there are amendments not relevant to these Regulations.

**E+W**

**55.** In regulation 4(1)(b) of the Refuges (Children's Homes and Foster Placements) Regulations 1991 <sup>M39</sup>, for “Parts III to V of the Children's Homes Regulations 2001” substitute “ Parts 2 and 4 to 6 of the Children's Homes (England) Regulations 2015 ”.

**Marginal Citations**

**M39** [S.I. 1991/1507](#), as amended by [S.I. 2002/546](#). There are other amendments which are not relevant to these Regulations.

**Revocations** **E+W**

**56.** The following regulations are revoked—

- (a) the Children's Homes Regulations 2001 <sup>M40</sup>;
- (b) the Children's Homes (Amendment) Regulations 2011 <sup>M41</sup>.

**Marginal Citations**

**M40** [S.I. 2001/3967](#), as amended by: [S.I. 2002/865](#); [2002/2469](#); [2004/664](#); [2004/865](#); [2004/3168](#); [2005/1541](#); [2006/1738](#); [2009/1895](#); [2010/1172](#); [2011/583](#); [2012/979](#); [2012/2404](#); [2013/235](#); [2013/706](#); [2013/1394](#); [2013/3239](#) and [2014/2103](#).

**M41** [S.I. 2011/583](#).

**Review** **E+W**

**57.**—(1) Before 1st April 2020, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
  - (b) assess the extent to which those objectives are achieved; and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

Department for Education

*Edward Timpson*  
Parliamentary Under Secretary of State

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## SCHEDULE 1 **E+W**

Regulation 16

### Matters to be included in the Statement of Purpose

#### **Quality and purpose of care** **E+W**

1. A statement of the range of needs of the children for whom it is intended that the children's home is to provide care and accommodation.
2. Details of the home's ethos, the outcomes that the home seeks to achieve and its approach to achieving them.
3. A description of the accommodation offered by the home, including—
  - (a) how accommodation has been adapted to the needs of children;
  - (b) the age range, number and sex of children for whom it is intended that accommodation is to be provided; and
  - (c) the type of accommodation, including sleeping accommodation.
4. A description of the location of the home.
5. The arrangements for supporting the cultural, linguistic and religious needs of children.
6. Details of who to contact if a person has a complaint about the home and how that person can access the home's complaints policy.
7. Details of how a person, body or organisation involved in the care or protection of a child can access the home's child protection policies or the behaviour management policy.

#### **Views, wishes and feelings** **E+W**

8. A description of the home's policy and approach to consulting children about the quality of their care.
9. A description of the home's policy and approach in relation to—
  - (a) anti-discriminatory practice in respect of children and their families; and
  - (b) children's rights.

#### **Education** **E+W**

10. Details of provision to support children with special educational needs.
11. If the home is registered as a school, details of the curriculum provided by the home and the management and structure of the arrangements for education.
12. If the home is not registered as a school, the arrangements for children to attend local schools and the provision made by the home to promote children's educational achievement.

#### **Enjoyment and achievement** **E+W**

13. The arrangements for enabling children to take part in and benefit from a variety of activities that meet their needs and develop and reflect their creative, intellectual, physical and social interests and skills.

#### **Health** **E+W**

14. Details of any healthcare or therapy provided, including—

- (a) details of the qualifications and professional supervision of the staff involved in providing any healthcare or therapy; and
- (b) information about how the effectiveness of any healthcare or therapy provided is measured, the evidence demonstrating its effectiveness and details of how the information or the evidence can be accessed.

#### **Positive relationships** **E+W**

15. The arrangements for promoting contact between children and their families and friends.

#### **Protection of children** **E+W**

16. A description of the home's approach to the monitoring and surveillance of children.
17. Details of the home's approach to behavioural support, including information about—
- (a) the home's approach to restraint in relation to children; and
  - (b) how persons working in the home are trained in restraint and how their competence is assessed.

#### **Leadership and management** **E+W**

18. The name and work address of—
- (a) the registered provider;
  - (b) the responsible individual (if one is nominated); and
  - (c) the registered manager (if one is appointed).
19. Details of the experience and qualifications of staff, including any staff commissioned to provide education or health care.
20. Details of the management and staffing structure of the home, including arrangements for the professional supervision of staff, including staff that provide education or health care.
21. If the staff are all of one sex, or mainly of one sex, a description of how the home promotes appropriate role models of both sexes.

#### **Care planning** **E+W**

22. Any criteria used for the admission of children to the home, including any policies and procedures for emergency admission.

### SCHEDULE 2 **E+W**

Regulations 26, 28, and 32

#### Information required in respect of persons seeking to carry on, manage or work at a children's home

1. Proof of identity including a recent photograph.
2. Either—
  - (a) where the position falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002<sup>M42</sup>, an enhanced criminal record certificate issued under section 113B of the Police Act 1997<sup>M43</sup> which includes, where applicable, suitability information relating to—

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- (i) children (within the meaning of section 113BA(2) of the Police Act 1997<sup>M44</sup>);
  - (ii) vulnerable adults (within the meaning of section 113BB(2) of the Police Act 1997<sup>M45</sup>); or
- (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997<sup>M46</sup>.

#### Marginal Citations

- M42** S.I. 2002/233. Regulation 5A of S.I. 2002/233 was inserted by S.I. 2006/748 and was amended by: S.I. 2007/1982; 2008/2143; 2009/1882; 2010/817; 2012/2114; 2012/3006; 2012/3016; 2013/1194; 2013/2669 and 2014/955.
- M43** 1997 c.50 (“the 1997 Act”). Section 113B of the 1997 Act was inserted by section 163(2) of the [Serious Organised Crime and Police Act 2005 \(c.15, “the 2005 Act”\)](#). Section 113B of the 1997 Act was amended by: paragraph 14 of Schedule 9 to the [SVGA 2006](#); paragraph 149 of Schedule 16 to the [Armed Forces Act 2006 \(c.52\)](#); S.I. 2009/203; Part 8 of Schedule 8 to the [PCA 2009](#); sections 79, 80, 82 and 115 of, and Schedules 9 and 10 to, the [PoFA 2012](#); S.I. 2012/3006; and paragraph 60 of Schedule 8 to the [Crime and Courts Act 2013 \(c.22\)](#). There are other amendments to section 113B of the 1997 Act, but none are relevant to these Regulations.
- M44** Section 113BA of the 1997 Act was inserted, in relation to England, Wales and Northern Ireland, by section 63 of, and paragraph 14 of Schedule 9 to, the [SVGA 2006](#) and was amended by: Schedule 10 to the [PoFA 2012](#); Section 170 of the [Education and Inspections Act 2006 \(c.40\)](#) and Schedule 1 to the [Education and Skills Act 2008 \(c.25\)](#).
- M45** Section 113BB of the 1997 Act was inserted by section 63 of, and paragraph 14 of Schedule 9 to, the [SVGA 2006](#) and was amended by Schedule 10 to the [PoFA 2012](#).
- M46** Section 113A of the 1997 Act was inserted by section 163 of the [2005 Act](#). Section 113A of the 1997 Act was amended by: section 50 of the [CJIA 2008](#); S.I. 2009/203; section 97(2) of, and Schedule 8 to, the [PCA 2009](#); sections 79, 80 and 115 of, and Schedules 9 and 10 to, the [PoFA 2012](#); S.I. 2012/3006 and 2013/1200. There are other amendments to section 113A of the 1997 Act, but none are relevant to these Regulations.

3. Two written references, including a reference from the person's most recent employer, if any.
4. If a person has previously worked in a position involving work with children or vulnerable adults, verification so far as reasonably practicable of the reason why the employment or position ended.
5. Documentary evidence of any qualifications which the person considers relevant for the position.
6. A full employment history, together with a satisfactory explanation of any gaps in employment, in writing.

### SCHEDULE 3 E+W

Regulation 36

Information to be included in each child's case records

#### Personal details in relation to the child E+W

1. The child's name and any name by which the child has previously been known, other than a name used by the child prior to adoption.



2. The child's date of birth and sex.
3. The child's religion, if any.
4. The child's ethnicity, and the child's cultural and linguistic background.
5. The child's address immediately before entering the home.
6. The address, and the type of establishment or accommodation, to which the child is to go when the child ceases to be accommodated in the home.
7. The dates on which any money or valuables are deposited by or on behalf of the child for safekeeping, the amount of money or a description of the valuables, and the dates on which any money is withdrawn, and any valuables are returned.
8. The statutory provision (if any) under which the child is provided with accommodation.

**Contact details of certain persons in relation to the child** **E+W**

9. The name (including, where the placing authority is not a parent, the name of an individual who may be contacted), address and telephone number of the child's placing authority.
10. The name, address, telephone number and the religion, if any, of the child's parents.
11. The name, address and telephone number of any social worker assigned to the child by the placing authority.
12. If the child attends a school or college—
  - (a) the name, address and telephone number of the school or college; and
  - (b) if the school has a member of staff who has been designated by its governing body under section 20(1) of the Children and Young Persons Act 2008, the name and telephone number of the designated member of staff.
13. The name, address and telephone number of any employer of the child.

**Information relating to the care, protection or safety of the child** **E+W**

14. The date and circumstances of all incidents where a child goes missing from the home, including any information relating to the child's whereabouts during the period of absence.
15. The date and circumstances of any measure of control, discipline or restraint used in relation to the child.
16. Arrangements for, and any restrictions on, contact between the child, the child's parents, and any other person.

**Plans or reports relating to the child** **E+W**

17. A copy of any EHC plan or statement of special educational needs in relation to the child.
18. Every school report received in respect of the child while the child is accommodated in the home.
19. A copy of any plan for the care of the child prepared by the child's placing authority, and of the placement plan.
20. The date and result of any review of the placing authority's plan for the care of the child, or of the child's placement plan.

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### Health matters in relation to the child **E+W**

21. The name of the general medical practitioner with whom the child is a registered patient, the address of the premises at which the child's primary medical services are usually provided and the name and address of the child's registered dental practitioner.
22. Details of any accident or serious illness involving the child while accommodated in the home.
23. Details of any immunisation, allergy, or medical examination of the child and of any medical or dental need or treatment of the child.
24. Details of any health examination or developmental test conducted with respect to the child at, or in connection with, the child's school.
25. Details of any medicines kept for the child in the home, including details of—
  - (a) any medicines which the child is permitted to self-administer;
  - (b) the administration of any medicine to the child;
  - (c) the disposal of any medicine.
26. Any special dietary or health needs of the child.

### SCHEDULE 4 **E+W**

Regulation 37

#### Other records with respect to children's homes

### Register of children **E+W**

1. A record in the form of a register showing in respect of each child—
  - (a) the date of the child's admission to the children's home;
  - (b) the date on which the child ceased to be accommodated in the home;
  - (c) the child's address immediately before being accommodated in the home;
  - (d) the child's address on leaving the home;
  - (e) the child's placing authority; and
  - (f) the statutory provision (if any) under which the child is accommodated.

### Staff, staff rosters, persons residing or working in the home, visitors **E+W**

2. A record showing in respect of each person working at the home—
  - (a) the person's full name;
  - (b) the person's sex;
  - (c) the person's date of birth;
  - (d) the person's home address;
  - (e) the person's qualifications relevant to, and experience of, work involving children;
  - (f) whether the person works at the home full-time or part-time (whether paid or not), and if part-time, the average number of hours worked per week; and
  - (g) whether the person resides at the home.

3. A copy of the staff duty roster of persons working at the home, and a record of the actual rosters worked.

4. A record of any persons who reside or work at any time at the home, who are not mentioned in the records kept in accordance with paragraphs 1 or 2.

5. A record of all visitors to the home, and to children, including the names of visitors and the reasons for the visit.

#### **Fire drills** E+W

6. A record of every fire drill or fire alarm test conducted, with details of any deficiency in either the procedure or the equipment concerned, together with details of the steps taken to remedy that deficiency.

#### **Accounts** E+W

7. Records of all accounts kept in the children's home.

### SCHEDULE 5 E+W

Regulation 52

#### Modification of the Regulations for short breaks and secure children's homes

#### **Modifications for short breaks** E+W

1. The following regulations do not apply to short breaks—

- (a) regulation 5(b) (engaging with the wider system to ensure each child's needs are met);
- (b) regulation 8(2)(a)(vi) and (viii) to (x) (the education standard);
- (c) regulation 10(2)(b) and (c) (the health and well-being standard);
- (d) regulation 41 (notification with respect to children admitted into, or discharged from, a children's home).

2. Regulation 6(2)(b)(vi) (the quality and purpose of care standard) applies to short breaks as if “that prepare the child to return home, to live in a new placement or to live independently as an adult” were omitted.

#### **Modifications for secure children's homes** E+W

3. Regulation 9(2)(a)(iii) (*the enjoyment and achievement standard*) applies to a secure children's home as if for “and the wider community” there were substituted “ and, to the extent that it is appropriate to do so, to the wider community ”.

4. Regulation 21 (*privacy and access*) applies to a secure children's home as if—

- (a) for “The” at the beginning there were substituted “ Save to the extent that it is necessary to keep children in a secure children's home, the ”;
- (b) paragraph (c)(i) and (iv) were omitted.

5. In the case of a youth justice child (whether that youth justice child is looked after or not), references to “placing authority” or “placing authorities” are modified to include the Youth Justice Board for England and Wales or the Secretary of State in the following regulations—

- (a) regulation 5(c);

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- (b) regulation 16(2);
- (c) regulation 34(2)(b) and (c);
- (d) regulation 40(1)(b) and (3)(b);
- (e) regulation 41(3)(d);
- (f) regulation 44(7)(c); and
- (g) regulation 45(4) and (5).

6. In the case of a youth justice child who is not looked after by a local authority, references to “placing authority” or “placing authorities” are modified to include a parent of the youth justice child in the following regulations—

- (a) regulation 40(1)(b) and (3)(b);
- (b) regulation 41(3)(d); and
- (c) regulation 44(2)(b).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Children's Homes Regulations 2001.

In Part 1, regulation 1 applies these Regulations to persons aged 18 or over, as they apply to children, where the person is accommodated in a children's home and they are not employed to work in or for the home. Regulation 3 excludes certain establishments from the definition of a children's home under section 1 of the Care Standards Act 2000 (“the CSA 2000”).

In Chapter 1 of Part 2, regulations 4 to 14 set out various standards that children's homes must meet. Regulation 15 requires a person registered in respect of a home (“the registered person”) to have regard to a statement of standards for homes published by the Secretary of State under section 23 of the CSA 2000.

Chapter 2 of Part 2 of the Regulations makes provision about the conduct of children's homes. Regulation 16 requires each home to have a statement of purpose covering the matters in Schedule 1; the home must be carried on in a manner that is consistent with the statement of purpose. Regulations 17 and 18 set out what a registered person is required to do in relation to formulating children's placement plans. Regulation 19 sets out how homes must approach behaviour management and discipline. Regulation 20 sets out the circumstances when restraint can be used in relation to a child; it also makes it clear that the Regulations do not prevent deprivation of a child's liberty that is in accordance with a court order. Regulations 21 to 25 make provision as to children's privacy and access to premises, arrangements for contact and visitors, arrangements for handling and storing medicines, the use of surveillance devices and fire precautions.

Part 3 contains provisions about the persons carrying on and managing the home, and requires satisfactory information to be available in relation to the matters prescribed in Schedule 2.

Where the registered provider is an organisation, it must nominate a responsible individual in respect of whom this information must be available (regulation 26). Regulation 27 prescribes the circumstances where a manager must be appointed for the home. Regulation 28 makes provision about the requirements of managers and the qualifications that a manager must hold or obtain. Regulation 29 imposes general requirements in relation to the proper conduct of the home, and the need for continuing professional development of the registered person.

Part 4 contains provisions about the staffing of homes, the fitness of workers and the qualifications that staff working in a care role must hold or obtain. Regulation 32 requires satisfactory information to be available about staff in relation to the matters prescribed in Schedule 2.

Part 5 contains provisions about the policies that homes must have in place, record keeping (in particular, in relation to the records set out in Schedules 3 and 4), complaints and notifications that must be made when certain events occur.

Part 6 contains provisions about the management of the home. Regulations 43 and 44 require a provider to appoint an independent person to examine and report on, in particular, the quality of care provided by the home. Regulation 45 requires the registered person to review the quality of care provided by the home at least once every 6 months. Regulation 46 requires the registered person to review annually the appropriateness and suitability of the home's location. Regulation 47 imposes requirements as to the home's financial position.

Part 7 contains miscellaneous provisions dealing with the giving of notices to HMCI, requirements where a liquidator is appointed or a registered person dies, the application of the Regulations to short breaks and secure children's homes (with the modifications set out in Schedule 5), amendments and revocations. Regulation 57 requires the Secretary of State to review the operation and effect of the Regulations, and to publish a report about this, before 1st April 2020.

An impact assessment of the effect that the Regulations will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum. These are available alongside the Regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk).

**Status:**

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**Changes to legislation:**

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