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STATUTORY INSTRUMENTS

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**2015 No. 541**

**The Children's Homes (England) Regulations 2015**

**PART 5**

Policies, records, complaints and notifications

**Policies for the protection of children**

- 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**

**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**

**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**

**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.**

**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

**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

**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 <sup>[F1]</sup>integrated care board (established under Chapter A3 of Part 2] 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
- (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>M1</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).

**F1** Words in [reg. 40\(1\)\(e\)](#) substituted (1.7.2022) by [The Health and Care Act 2022 \(Consequential and Related Amendments and Transitional Provisions\) Regulations 2022 \(S.I. 2022/634\)](#), regs. 1(2), **81(2)**

#### **Marginal Citations**

**M1** [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**

**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>M2</sup><sup>F2</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>M3</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.

**F2** 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

- M2** 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.
- M3** 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

**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—
- (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.

**Changes to legislation:**

There are currently no known outstanding effects for the The Children's Homes (England) Regulations 2015, PART 5.