

Practice Information Notes

The purpose of Practice Information Notes is to review current information and knowledge, outline the key issues and examine the implications for foster care, and provide best practice recommendations for fostering service providers and links to key documents. Each service will decide on practice based on the needs of the young people in its care and its foster carer population.

Practice Information Note: Foster carer reviews (England)

The purpose of this Practice Information Note is to:

- Provide an overview of the legislation regarding foster carer reviews
- Outline the requirements of the legislation in regard to the conduct of the review of foster carers
- Provide practice guidance on issues relating to the review of foster carers' suitability to foster.

References to legislation, regulation, statutory guidance and National Minimum Standards (England)

- Children Act 1989
- The Fostering Services (England) Regulations 2011
- Fostering Services: National Minimum Standards 2011
- The Children Act 1989 Guidance and Regulations Volume 4: Fostering Services
- The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013
- Assessment and approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services July 2013

Key points

- A review of the approval of a foster carer must be held at a minimum of one year from the date of their approval. The approval of new foster carers is complete when the fostering decision maker makes and signs the decision.
- The first review of approval must be presented to the fostering panel for consideration. It is the decision of the fostering service as to which other reviews are presented to the panel as per local policy.
- In subsequent years a review must be held at intervals of not more than a year but can be held whenever the fostering service provider considers it necessary, for example to consider a change of circumstances or change of terms of approval.

- **All** reviews must be seen by the fostering decision maker who is the only individual who can agree the continued approval of a foster carer.
- There is no statutory requirement to hold a review of approval following an allegation or investigation into any other concerns over a foster carer; however, it is good practice to do so.
- The review must consider whether the foster carer and their household remains suitable to be approved. This includes all members of the household and therefore all reviews should consider:
 - changes to the household membership, i.e. all living in/visiting the foster carers property
 - changes to the individual circumstances of all household members
- Where two people are fostering as a couple, they will have been approved individually but should have been assessed jointly. Therefore, reviews of their suitability must consider the situation of both foster carers.
- Where a couple have different approval dates, for example when a new partner has joined the household of an existing approved foster carer and been approved separately, good practice is for the next review to be held in the timescale of the first approved foster carer; that is a joint review.
- The fostering regulations make no distinction between foster carers and therefore all the regulations, and the information in this Practice Information Note relates to both family and friends/connected persons and mainstream foster carers.

Introduction

Fostering Regulation 28 relates to the review and termination of approval of foster carers and sets out the timescale for reviews, the consultation which must form part of the review process and what should happen after the review is completed. This Practice Information Note includes that detail, as well as a discussion of good practice around.

The review process

Each review should include the views of the foster carer, any child who is placed with the foster carer and any child's social worker who has placed a child with the foster carer during the period under review. Fostering Regulation (28(3)(b)(i-iii)).

Child/young person

Children and young people should be supported to complete review forms and where necessary given help to do so by a trusted adult who is not the foster carer e.g. the child's social worker, a contact supervisor or a school teacher/support assistant. The review form should state who has helped the child to complete the form. This both encourages the child to give their views fully and also protects the foster carer form being seen to have influenced what the child has written.

Foster carer

It is important that carers who struggle to complete forms as a result of literacy or language issues are helped to do so. Service might consider whether they can use a buddy system in such cases with another carer completing the written form on their behalf. As above it should be made clear who has written the response. Alternatively, it would be possible for them to record their views and responses to questions on the form and for a recording, or even a short film clip, be provided to the chair of the review meeting.

Child's social worker

The challenge of ensuring that the views of the child's social worker are available to the review is well known by fostering services. The fostering regulations require that their views are "sought" and therefore, while it may be unsatisfactory if they are not available it should not delay the review meeting.

Supervising social workers should consider making telephone contact with children's social workers to discuss their views and make a record of the conversation available at the review meeting if the completed response form is not forthcoming.

Supervising social worker

The supervising social worker's report to the meeting should be detailed and must cover the whole of the review period. Any concerns or allegations must be included even if no further action was taken in regard to these.

Where the fostering service is recommending a change to the terms of approval, or deregistration the report must evidence the reasons for this change including, where necessary, evidence of the carer's ability to care for children of a different age or gender from which they are currently approved.

The report should make a clear recommendation as to the carer's suitability or otherwise to continue to be approved as a foster carer and any terms of approval.

Where the fostering team manager is not the chair of the review meeting, they should countersign the report.

Birth children and any other member of the fostering household.

Birth children of the foster carer(s), including adult children, should be encouraged to give their views on the impact of fostering on them, their parents and the household in general. Where the supervising social worker meets with birth children, she/he should include any views collected during the review period in their report.

As with children in the placement the fostering service should consider innovative ways, such as the use of social media, to gather the views of children and young people of all ages.

Others

The fostering service must also make any other enquiries and obtain information which they consider necessary. Consideration should be given as to whether the birth parents of fostered children are able to contribute to the review documents. This may be by means of a telephone or face to face conversation with child's or supervising social worker. Others who may be in a position to give helpful comments are IROs and independent visitors.

The regulations also allow for the inclusion in the review of information such as investigations into allegations, minutes of placement disruption meetings, minutes of strategy meetings, updated DBS, health and other checks which the fostering service deems are required.

It is worth noting that the fostering regulations only require statutory checks to be made at the time of approval. The updating of any checks and the regularity of such updates is a decision for the service to make as per service policy.

The regulations do not explicitly specify that the fostering service, via the supervising social worker, should provide their views for the review of approval. Recommended good practice for fostering services is for the supervising social worker to provide the review with the view of the fostering service.

At the conclusion of the review a report must be written which details whether the foster carer and their household continues to be suitable to be approved and whether any terms of approval remain suitable or require changing. Any change in terms of approval proposed by the review should be in the form of a recommendation; the report should provide evidence of the reasons for the proposed change and evidence the foster carer's ability to meet the new terms of approval.

Following the completion of the review report the fostering service should follow its written procedure in regard to reviews.

All reviews must be seen by the fostering decision maker who is the only individual who can agree the continued approval of a foster carer. The decision maker is not allowed to delegate this task to another manager. However, the fostering service can appoint more than one decision maker and thereby share the workload. All decision makers must meet the criteria set out in National Minimum Standard 23.12.

On conclusion of the decision being made the fostering service *must* write to the foster carer giving notice of the decision. If the decision is that their approval is terminated, then this must be in the form of a qualifying determination and the foster carer must be advised of their right to make representation to the fostering service or to the Secretary of State through the independent review mechanism. Regulation 28 (7) (a and b).

If the review report is not presented to the fostering panel then it should be sent directly to the fostering decision maker for a decision as to both continued suitability of the carer and their household as well as any terms of approval. (Assessment and Approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services July 2013. page 19 paragraph 2). See link below in Links to Key Documents.

Following the decision, the process described above regarding informing the foster carer in writing should be followed.

Foster carer review meetings

There is no requirement in the fostering services regulations for a review meeting to be convened, but in England the majority of fostering services hold a review meeting to which the foster carer is invited. This is recognised and supported as good practice.

It is possible for a foster care review to be conducted on paper. The final report and recommendations made following a reading of all the papers submitted as part of the review could be presented to the fostering panel and should be submitted to the decision maker. There are a variety of ways in which review meetings are chaired, these include:

- By a person who is independent of the fostering service
- By a person who is employed by the fostering service
- By the team manager of the foster carer's supervising social worker
- By another team manager from the fostering service
- The foster carer's supervising social worker
- By another supervising social worker

It will be evident that these arrangements give differing degrees of independence to the review meeting.

Where there are two foster carers in the household fostering services should make all efforts to ensure that both carers are able to attend the review meeting. This should include the consideration of holding meetings outside usual working hours.

Presentation of reviews to the fostering panel

All first reviews must be presented to the fostering panel according to Regulation 28 (5). The role of the fostering panel is to consider the recommendation of the review in regard of continued suitability to be approved and any terms of approval. If the panel does not feel that the review report includes sufficient information for them to consider the matter, then they should defer their consideration of the review and ask for the additional information they require to be included in the report and re-presented.

When considering review recommendations, the fostering panel should indicate in its minutes whether it agrees with the recommendation of the review report or make their own recommendation. This recommendation should include both suitability to foster and terms of approval.

Foster carers *must* be invited to attend and be heard at the panel meeting and to bring a supporter if they wish. (National Minimum Standard 14.5). See link below in Links to Key Documents.

The minutes of the fostering panel will be presented to the fostering decision maker for a decision. The decision maker should consider both the panel minutes and the review report and decide whether to accept the recommendation(s). It is possible for the decision maker to disagree with the recommendation(s) and make a different decision. For example, the review and panel might consider the carer suitable; however, the decision maker may make a qualifying determination that the carer is not suitable or vice versa.

Following the decision, the concluding parts of the review process, informing the foster carer should be followed.

Fostering services' review policies and procedures should be made available to all foster carers.

Please note: In some instances, Fostering Services use their fostering panel to conduct the review meeting. It is important to note that if this occurs the panel are not sitting as a fostering panel to do so but have effectively become a "review panel" for the duration of that item of business. There is no provision within the fostering regulations and guidance for a fostering panel to conduct foster carer reviews. If the panel conducts the review then they will not be able to consider their own recommendation, therefore in the case of foster carer reviews this would be outside of regulations.

At what date is a review completed?

Regulation 28 states "at the conclusion of the review" a report must be written. Therefore, by definition the review has been concluded when the report is written.

The process of presenting the report to the panel and/or to the fostering decision maker happens after the review and is therefore not a part of the review.

Changes to terms of approval

The Fostering Services (England) Regulations stipulate that to change a foster carer's approval the fostering service **must** conduct a review, with the proposed changes to the foster carer's terms of approval as a clear recommendation. The recommendation must then be considered and agreed by the fostering decision maker.

The supervising social worker report presented to the review must give an explanation of the reasons for the change and provide evidence and analysis of the foster carer's ability to meet the demands of the new terms of approval.

The fostering service should ensure that each carer's abilities to meet the needs of children/young people is reflected in their terms of approval; this should be clearly evidenced, considered and analysed.

Blanket terms of approval (for example the approval of all foster carers for children and young people aged 0-18 years) is not considered to be good practice; as stated above terms of approval should reflect the foster carer's ability – their skills, knowledge, understanding and experience - to care for children and young people on the basis of need rather than chronological age.

Following a recommendation to change terms of approval the process for the decision maker to consider and agree this should be followed. Foster carers must be informed of their right to use the independent review mechanism (IRM) if they do not agree with the qualifying determination.

The amendments to the Fostering Regulations 2013 introduced an option which allows, subject to the foster carer's agreement, for changes of terms of approval to come into effect immediately on the decision maker agreeing the changes Regulation 28(7) (aa).

In these circumstances the fostering service must provide a statement to the review setting out whether they consider that the foster carer or members of the foster carer's household have additional support needs as a result of the proposed changes to the terms of approval and, if so, how those needs will be met.

The foster carer must give their agreement in writing to the proposed change. By doing so the foster carer waives their right to make representations against the decision.

Both the statement from the fostering service and the carer's written agreement to the proposed change must be considered by the decision maker, along with the review report before making the decision.

The final stage before a placement can be made is the signing of a revised foster carer agreement which details the new terms of approval.

Temporary changes of approval

There are no provisions in the fostering regulations for a temporary change to terms of approval to be made.

The care planning regulations make clear that a placement of a child which is outside the terms of approval of the foster carer can only be made for six working days.

Emergency reviews to change terms of approval

Care should be taken in deciding whether to make a change of terms of approval and best practice would be not to make these without allowing all concerned time to reflect on the implications of so doing.

The question is sometimes asked whether a foster carer review can be held within the six working days timescale when a child is placed outside the carer's terms of approval. If it is felt to be the right thing to do, the fostering service and the foster carer are in agreement and the supervising social worker has the time to undertake the work required, then it is possible. The timetable for this process might look something like this:

Day 1

- Child placed outside terms of approval.

Day 2

- Foster carer and supervising social worker discuss and agree to propose a change of terms of approval.

Days 3 and 4

- Supervising social worker seeks and obtains the views of:
 - the social workers of any children in placement
 - any children in placement
 - any others who would usually be consulted for a review such as birth children
- The foster carer completes their review form.
- The supervising social worker completes their review report.
- The supervising social worker writes the statement of any additional support required as a result of the change of circumstances and gives this to the foster carer.
- The foster carer gives their written agreement to the changes.

Day 5

- The review is held. This might be held without a review meeting if the service review procedure has been written to allow this to happen in exceptional circumstances.
- On completion of the review, in whatever format, the supervising social worker writes the review report and passes it, along with the statement of additional support and the written agreement of the foster carer, to the decision maker.

Day 6

- The decision maker makes the decision and issues a letter to the foster carer along with a revised foster carer agreement which is then signed by the foster carer.

Reviews following allegations or concerns

It is good practice that reviews which are considering allegations or a termination of approval for any reason should have a strong element of independence in their chairing.

Foster carers who are the subject of allegations and investigation of those allegations should be provided with independent support (National Minimum Standard 22.12).

The independent supporter should be invited to the review meeting which considers any such investigation. National Minimum Standard 22.8 requires that a foster carer's suitability to foster should be reviewed **as soon as possible** after the conclusion of the investigation.

There is no requirement in the regulations that such reviews have to be presented to the fostering panel, but it would be good practice to do so in order to have some independent oversight of the actions of both the fostering service and the carer.

If the review is recommending deregistration there is a likelihood that the foster carer may wish to make representation to the IRM. Fostering services should be aware that the IRM panel will consider whether the service has followed regulations, guidance and National Minimum Standards in their conduct of any investigation and subsequent review. This may impact on the recommendation made by the IRM to the service decision maker.

Following such a review being presented to the panel the usual process for decision making should be followed.

Terminations of approval

Terminations of approval and deregistration can only be made by means of the review process. There are no provisions in the regulations for deregistering a foster carer in any other way.

The Fostering Network makes the following recommendations

- Fostering services should have a written policy on the process and conduct of reviews which should be made available to all foster carers.
- Fostering services' policy should include explicit reference(s) to various review situations e.g. following allegations, when emergency placements are made.
- Fostering services policy should be the subject of consultation with foster carers to ensure it is fair and equitable.
- Where there are two foster carers in the household every effort should be made to ensure that both carers are able to attend and participate in the review meeting and review process.
- Fostering services should make every effort to ensure that children's social workers submit their views to foster carer's reviews. They should be reminded of their duty as representatives of the corporate parent to act in the interests of the child.
- The views of children in placement should be taken into account in all reviews AND fostering services should have a means of collecting the views of children who cannot communicate easily.
- A review should be held following an allegation or investigation into any other concerns over a foster carer.
- Fostering services should consider methods other than paper forms to collect the views of children, such as social media, on-line questionnaires, video comment as appropriate.

Links to key documents

- The Fostering Services (England) Regulations 2011
http://www.legislation.gov.uk/uksi/2011/581/pdfs/uksi_20110581_en.pdf
- The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013
http://www.legislation.gov.uk/uksi/2013/984/pdfs/uksi_20130984_en.pdf
- The Children Act 1989 Guidance and Regulations Volume 4: Fostering Services

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274220/Children_Act_1989_fostering_services.pdf

- Fostering Services: National Minimum Standards 2011
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192705/NMS_Fostering_Services.pdf
- Assessment and approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services July 2013
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275764/20130522_statutory_guidanceassessment_and_approval_of_foster_carers_final.pdf

The practice support team

The practice support team comprises regional consultants covering England. The team provides a range of services to the Fostering Network members including:

- Practice advice information support and guidance
- Consultancy
- Practice briefings
- Training delivery

If you would like further information about the practice support team and what we can do to support you, please get in touch with Sarah McEnhill, Head of Practice on **0141 204 1400** otherwise you can email sarah.mcenhill@fostering.net

For more information please visit our website: thefosteringnetwork.org.uk/advice-information/advice/practice-support

March 2021