



CHILDREN ORDER

CHILDREN (NI) ORDER 1995

Guidance and Regulations

Volume 3

**Family Placements and
Private Fostering**



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The Children Order series of regulations and guidance consists of the following:

Volume 1: Court Orders and other Legal Issues

Volume 2: Family Support, Child Minding and Day Care

Volume 3: Family Placements and Private Fostering

Volume 4: Residential Care

Volume 5: Children with a Disability

Volume 6: Co-operating to Protect Children



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PREFACE

This series of volumes of regulations builds upon “An Introduction to the Children (NI) Order 1995” published by the Department of Health and Social Services and the Office of Law Reform. The regulations and guidance in this series are primarily addressed to Health and Social Services Boards and Trusts. However, as they will have an impact upon the work of a wide range of agencies and individuals who work with children and young people in both the statutory and voluntary sector, they are of major importance to all involved with the welfare of children in any capacity including education and library boards, schools, those responsible for the management of children’s homes, those providing child minding and day care services.

THE STATUS OF REGULATIONS AND GUIDANCE

*The regulations and guidance in this services build upon the legislative framework of the Children (Northern Ireland) Order 1995. The Children Order is law and must be complied with. The **regulations** made under the Children Order include permissions and restrictions as to what may or may not be done and also requirements on what must be done. As with the Order itself the regulations carry the full weight of law. The **guidance** issued under the Children Order is not law in the way that regulations are. Where the guidance explains the requirements of the Children Order or regulations it is reaffirming the law. Where it goes beyond regulations it conveys the message that ‘it is highly desirable to...’ or ‘Unless there is good reason not to, you should ...’ rather than ‘You must’. This is intended to give some degree of flexibility in the application of what the Department considers to be good practice. However it should be noted that whilst they are not in themselves law in the way that regulations are law it is possible that guidance documents may be referred to in court proceedings and that courts may expect justification for not following guidance.*

NOTE ON TERMINOLOGY

Although nothing in the Children Order turns on the sex of the person referred to references in this volume to the child follow the legislative convention of the Children Order itself in referring to “he”, “his” or “him”.



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The Children Order includes statements as to the powers and duties of Health and Social Services Boards and Trusts. The Order itself uses the term “authority” to refer to a Board or Trust. The powers and duties will be exercised by a Board, except where a function is exercisable by a Trust by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994. In this series of guidance references are to a Trust except in the case of the registration and inspection functions in relation to children’s homes described in Volume 4.

FURTHER READING

Whilst these volumes are designed to provide a comprehensive guide to the Children Order they do not purport to be a comprehensive survey of good practice.

It is suggested that reference might be made to:

*The Social Services Librarian
Queens University Medical Library
Institute of Clinical Science
Grosvenor Road
Belfast
BT12 6BJ*

GENERAL PRINCIPLES ON WHICH THE CHILDREN ORDER IS BASED

In considering the detailed provisions of the Children Order in this volume attention is drawn to the major principles on which the Order is based.

- *The welfare of the child is the paramount consideration.*
- *Wherever possible, children should be brought up and cared for within their own families.*
- *Children should be safe and be protected by effective intervention if they are in danger, but such intervention should be open to challenge.*



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- *When dealing with children, courts should ensure that delay is avoided, and may only make an order if to do so is better than making no order at all.*
- *Children should be kept informed about what happens to them, and should participate when decisions are made about their future.*
- *Parents continue to have parental responsibility even when their children are no longer living with them. They should be kept informed about their children and participate when decisions are made about their children's future.*
- *Parents with children in need should be helped to bring up their children themselves and such help should be provided in partnership with parents.*
- *Services provided to children and their families should draw on effective partnership between Health and Social Services Boards and Trusts and other agencies.*



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**ANNEXES - REGULATIONS MADE UNDER THE CHILDREN
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Annex A	The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996
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CHAPTER 1: GENERAL INTRODUCTION

- 1.1 Part IV of the Children Order places new emphasis on Trusts' duty to provide services to support parents in bringing up children in need in their own home and to work in partnership with parents in looking after children away from home. Reference to "parents" includes any person with parental responsibility unless otherwise indicated. Trusts should bear in mind that the welfare of children is the paramount consideration when making decisions about their future and upbringing.
- 1.2 Part IV sets out the general duty placed on Trusts to safeguard and promote the welfare of children in need (Article 18). Part IV also expands upon this general duty in relation to children looked after by a Trust. "Looked after" is the term used in the Order to cover all children accommodated by a Trust, whether by voluntary arrangement or under a care order (references to "in care" are to children subject to a care order). Emphasis is placed upon the need to make plans for children looked after by Trusts or voluntary organisations. Closely linked to the concept of planning for children are the arrangements for the review of children's cases. Placement, planning and reviews for children looked after are to be conducted in partnership with those who are important in the child's life and with the children involved, subject to their understanding. This is reinforced by the requirement to provide a representations procedure. The Part IV provisions supported by those in Schedule 2 to the Children Order are intended to put beyond doubt the powers and duties of Trusts in assisting families to provide appropriately for the good health, proper care and development of their children.
- 1.3 The provision of residential accommodation is discussed as a service provision within this volume only so far as over-arching principles of the legislation and the general duties of Trusts apply to the process of decision-making, planning, review and representations. Guidance on residential placements is contained in **Volume 4: Residential Care**. Child protection issues are referred to within this volume but readers will need to refer to **Volume 1: Court Orders and other**



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Legal Issues for detailed guidance on the new court orders available under the Children Order and to **Volume 6: Co-operating to Protect Children.**



CHAPTER 2: PLACEMENT OF CHILDREN AND MAKING CARE PLANS

- 2.1 This chapter gives guidance on arrangements for placement and planning to safeguard and promote the welfare of children looked after by a Trust or accommodated by a voluntary organisation or privately run children's home without the involvement of a Trust. The agency looking after or accommodating the child is henceforward referred to as the responsible authority unless otherwise indicated. The Arrangements for Placement of Children (General) Regulations and guidance reflect the emphasis in the Children Order on partnership between parents, children and the responsible authority and between the responsible authority and other agencies, as being the most effective means of meeting the needs of the individual child.

Children who are looked after by a Trust

- 2.2 A child is looked after by a Trust if he is in its care by reason of a court order or is being provided with accommodation for more than 24 hours by agreement with the parents or with the child if he is aged 16 or over (Article 25(1) and (2)).
- 2.3 Under voluntary arrangements a Trust does not obtain parental responsibility for a child looked after, but is obliged to comply with the appropriate regulations. Although a care order gives a Trust parental responsibility for the child, any person who is a parent or guardian retains parental responsibility and may continue to exercise it to the extent that his actions are not incompatible with the care order (see Articles 5(7) and 52(3)(b)). This reflects the intention underpinning the Children Order that parents should be encouraged to exercise their responsibility for their child's welfare in a constructive way and that where compulsory intervention in the family is used it should, where possible, enhance rather than undermine the parental role. In care cases, where there are unresolved issues between the child's parents and the Trust, the Trust is ultimately responsible for ensuring that the needs of the child are safeguarded.



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Welfare

- 2.4 The primary duty of a Trust is to safeguard and promote the welfare of a child who is looked after and to make such use of services available for children cared for by their own parents as appears to the Trust reasonable in the case of a particular child (Article 26(1)(b)). The intention of the Children Order is that both the immediate and long term needs of the child should be considered and provided for in the Trust's planning for the child. In undertaking that planning for a child in care the Trust is required to give the same attention to the wishes and feelings of the child, parents and others as it must when providing accommodation under voluntary arrangements. The Trust should also take into account and consider the child's religious persuasion, racial origin and cultural and linguistic background. Children with a physical and/or sensory disability or a learning disability will require particular consideration and the accommodation provided for them should not be unsuitable to the needs of the child (Article 27(9)). **Trusts should ensure that all children placed away from home are provided with the Department's leaflet "Living Away From Home": Your Rights – A Guide for Children and Young People".**

Family links

- 2.5 When a child is being looked after by a Trust, the Trust is required to make arrangements for that child to live with a member of his family unless to do so would be impracticable or inconsistent with the child's welfare (Article 27(7)). "Family" in this context is any person falling within the scope of Article 27(4) or a relative, friend or other significant person in the child's life (such as, where a child is in care, a person in whose favour a residence order was in force immediately before the care order was made).
- 2.6 Insofar as it is reasonably practicable and consistent with the child's welfare, the child should be accommodated near his home and siblings should be accommodated together (Article 27(8)(a) and (b)).



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The provisions of paragraphs 9 and 11 of Schedule 2 to the Children Order can be used together to achieve reunification of a family when the child is living apart from some or all of his family but is not looked after by a Trust. This would be a matter for consideration also when a Trust is notified of a child accommodated by an education and library board or others (Articles 175 and 177).

Protection of the public

- 2.7 If it appears necessary to protect members of the public from serious injury from the actions or behaviour of a child, the Trust may exercise its powers in a manner which is not necessarily consistent with its duties under Article 26. This reservation is set out in Article 26(4). A further limitation on the welfare duty is contained in Article 26(5) and (6) which states that the Department of Health and Social Services may, if it is considered necessary to protect members of the public from serious injury, give directions to a Trust and that where such directions are given the Trust shall comply with them even though to do so is inconsistent with its duties under Article 26.

Arrangements for Placement of Children (General) Regulations and Review of Children's Cases Regulations

- 2.8 Arrangements for Placement of Children (General) Regulations place a duty on Trusts, voluntary organisations and privately run children's homes to draw up and record an individual plan for the child. "Looking After Children" (LAC) forms have been developed and designed to facilitate care planning and review processes. Trusts should introduce these forms for all children in care or accommodated by them. If, in exceptional circumstances, Trusts decide not to use the LAC forms, they must ensure that their systems are of a comparable standard and conform with the associated regulations and guidance. The Review of Children's Cases Regulations require that the plan is reviewed and amended as necessary on a regular basis – see Chapter 3. In these regulations, the expression "arrangements" is used (see regulation 4). This is referred to in the guidance by the social work term "plan". In



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safeguarding and promoting the welfare of children living away from their families, there is a dynamic relationship between planning and review. Planning is required from the earliest possible time after recognition of need or referral where the provision of accommodation (whether under voluntary arrangements or on a compulsory basis) is likely to be necessary. Thereafter, the plan should be reviewed on an ongoing basis. The responsible authority is required to seek and take into account all necessary considerations for the child's welfare, including the child's wishes and feelings, the wishes and feelings of the parents and all other relevant persons.

Partnerships and participation

- 2.9 One of the key principles of the Children Order is that responsible authorities should work in partnership with the parents of a child who is being looked after and also with the child himself, where he is of sufficient understanding, provided that this is consistent with promoting the child's welfare. A second, closely related principle is that parents and children should participate actively in the decision-making process. Partnership will only be achieved if parents are advised and given explanations of the Trust's powers and duties and the actions the Trust may need to take, for example, exchanges of information between relevant agencies. The general duties of responsible authorities outlined in Articles 26, 76 and 92 are primarily based on these principles. These duties require responsible authorities to consult parents and others and the child (where he is of sufficient understanding) before any decision is made affecting a child who is about to be or is already being looked after by a Trust, or who is accommodated in a voluntary home or privately run children's home. This approach reflects the fact that parents always retain parental responsibility. A Trust may limit parents' exercise of that responsibility when a child is looked after by a Trust as a result of a court order, but only if it is necessary to do so to safeguard and promote the child's welfare (Article 52(3)(b) and (4)).



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2.10 The development of a successful working partnership between the responsible authorities, parents and child, where he is of sufficient understanding, should enable the placement to proceed positively so that the child's welfare is safeguarded and promoted. The successful development of partnership with parents should in most cases avoid the need for care proceedings or emergency action. Although genuine partnership will be easier to achieve in the absence of compulsory measures, the same kind of approach should be taken in cases where a child is in the care of a Trust as a result of a court order. This will be achieved by:

- (a) consulting and notifying the parents about decisions affecting the child having regard to the views of the child's carers ie the foster parent or residential social worker and recognising that the child's welfare is the paramount consideration;
- (b) promoting contact between the child and his parents and family where it is reasonably practicable and consistent with the child's welfare; and
- (c) seeking to work with the parents to achieve a safe and stable environment for the child to return to (where this is a judged feasible) or by finding a satisfactory alternative placement for the child.

Provision of accommodation by voluntary agreement

2.11 The provision of accommodation for a child by a Trust under voluntary agreement with the parents will occur when the parents:

- suggest that kind of arrangement to the Trust;
- specifically request such provision; or
- accept proposals made by the Trust.



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In these situations, parents contribute their experience and knowledge of the child to the decision and the Trust brings a capacity to provide services, to co-ordinate the contribution of other agencies and to plan for and review the child's needs. Such placements fall within the scope of the Arrangements for Placement of Children (General) Regulations which require a Trust to agree a plan with the parents for the placement of the child. The plan should take into account the wishes and feelings of the child where he is of sufficient understanding. The Review of Children's Cases Regulations require a review of that plan on a regular basis. Accommodation may also be provided to a child aged 16 or over, despite parental objection if the child agrees (Article 21(5) and 22(5)). In these cases, the Trust will be working closely with the child to agree the plan for providing accommodation. **(t should be noted that, by virtue of Article 2(8) all references to accommodation provided by a Trust under the Children Order are to the types of accommodation listed in Article 27(2)).**

- 2.12 Agreements between parents and the responsible authority should reflect the fact that parents retain their parental responsibility. The responsible authority's responsibilities under these regulations should not detract in any way from the parents' continuing parental responsibility. Their continuing involvement with the child and exercise of their responsibility should be the basis of the agreed arrangements and all concerned in the arrangements should be aware of this. One agreement may cover several short-term placements such as a respite care arrangement if the conditions of regulation 13 of the Arrangements for Placement of Children (General) Regulations are satisfied.

Children looked after who are subject to a court order

- 2.13 The Arrangements for Placement of Children (General) Regulations apply to all cases where a child who is the subject of a court order is looked after by a Trust on a compulsory basis.



Short-term placements

2.14 Regulation 13 of the above mentioned regulations allows for a defined series of short pre-planned placements (eg for respite care, phased care and family link schemes) to be treated as a **single** placement for the application of the regulations. A plan for the child is required and all the requirements of the regulations apply, but need not be repeated for each episode of accommodation for as long as the conditions in regulation 13 are met. The conditions in regulation 13 are:

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

All placements should take place with the same carer for a family placement and at the same establishment for a residential placement ("at the same place").

Making the plan

2.15 The Arrangements for Placement of Children (General) Regulations place a statutory duty on responsible authorities to draw up a plan in writing for a child whom they are proposing to look after or accommodate in consultation with the child, his parents and other important individuals and agencies in the child's life (regulation 3). Planning for the child should begin prior to placement. After placement, the plan should be scrutinised and, if necessary, adjusted at the first review two weeks after the date the child was first looked after and at subsequent reviews.



- 2.16 In an emergency or immediate placement, it may not be possible to draw up a long-term plan prior to placement. However, a provisional outline plan should always exist. The firm plan should then be drawn up as soon as possible after the child has been looked after or accommodated and in any event not later than 14 days after the placement started. Once a plan has been drawn up it should be notified to the child and his parents. Persons who have been consulted and other relevant individuals should be notified on a need to know basis. This notification should normally take place prior to placement. Where this is not possible, notification should be given as soon as possible after placement. Any amendments made to the plan at the first or subsequent reviews should be recorded in writing and notified to those consulted or involved in the review as required by the Review of Children's Cases Regulations.
- 2.17 Where a child is provided with accommodation under agreed voluntary arrangements the plan for the child will have been agreed with the parents. It will form the basis of a written agreement between the responsible authority and the parents. However, where the accommodation is being provided as the result of a self-referral for assistance to a Trust by a child aged 16 years or over the agreement should be between that child and the Trust (see paragraphs 2.59-2.64 on agreements). Where a child who is looked after is the subject of a court order, the Trust should still seek to work in partnership and reach agreement with the parents, wherever possible. The arrangements made must be recorded in writing and a copy given to the parents (see paragraphs 2.65-2.68 on provision of information to others).

The purpose of planning

- 2.18 The purpose of planning is to safeguard and promote the child's welfare as required by the general welfare duties in Articles 18(1), 26(1), 76 and 92. The drawing up of an individual plan for each child looked after will prevent drift and help to focus work with the family and child. This will be achieved in broad terms by:



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- assessing the child's needs;
- determining objectives to be met to safeguard and promote the child's welfare;
- consulting with parents, the child and others whom the responsible authority considers are relevant;
- appraising the options available to meet those objectives;
- making decisions in full consultation with the child, his parents and other agencies and individuals with a legitimate interest;
- designating individuals to undertake specific tasks; and
- setting a timescale in which tasks must be achieved or reassessed.

Welfare of the child

2.19 Regulation 4 of, and Schedules 1-3 to, the Arrangements for Placement of Children (General) Regulations list matters to be considered by the responsible authority, so far as is reasonably practicable, when drawing up a plan for a child who is to be looked after or accommodated. The Children Order and the regulations require the following aspects of the child's welfare to be reflected in the plan. Individual cases may well require additional matters to be taken into consideration:

- the child's needs;
- the wishes and views of the child having regard to his understanding;
- parental responsibilities and the parents' capacity to provide for the child's needs;



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- the ability of the parents to adhere to an agreed plan (this may not be feasible in situations where the child is the subject of a court order);
- the provision of services under Part IV of the Children Order in respect of children looked after by a Trust;
- the type of placement best suited to the child's needs (taking into account the duty in relation to children looked after by a Trust to place the child near his home and with siblings if applicable);
- appropriate provision for the child's religious persuasion, racial origin and cultural and linguistic background;
- a Trust's duty under Article 27(7) to enable the child to live with a parent, other person with parental responsibility for the child, relative or friend or, in the case of a child in care a person in whose favour a residence order was in force immediately before the care order was made, or other person with a legitimate interest in the child;
- the arrangements proposed for contact with regard to the duty on a Trust in Article 29, to promote and maintain contact between the child and his family or contact under directions from the court (Article 53);
- the requirement in regulation 6 of the Arrangements for Placement of Children (General) Regulations that a voluntary organisation or the person carrying on a privately run children's home should endeavour to promote contact between the child and his parents, other persons with parental responsibility or a relative, friend or person connected with him;
- reunification issues not covered above;



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- the particular need a child may have because of a disability, including: suitability of accommodation and its location, arrangements for specific assessments (for example, under the Education and Libraries (Northern Ireland) Order 1986; and any further needs relating to physical or sensory disabilities or learning difficulties;
- the arrangements to be made for the child's development, health and education. (health and education are dealt with more fully below).

2.20 The importance of each of the above will vary for different children or for the same child at different times. All factors relevant to the welfare of the individual child must be taken into account in assessing the child's needs and in making decisions about the child's welfare.

Health care

2.21 Responsible authorities should act as good parents in relation to the health of children looked after or accommodated by them. Health care implies a positive approach to the child's health and should be taken to include general surveillance and care for health and developmental progress as well as treatment for illness and accidents. The health care of all children looked after by Trusts or accommodated by voluntary organisations or in privately run children's homes should be provided in the context of the child health surveillance programmes in the area which are designed to provide child health surveillance and promote the physical, social and emotional health and development of all children.

2.22 Regulation 7 of the Arrangements for Placement of Children (General) Regulations requires responsible authorities, when drawing up a plan for a child, to ensure that the child is provided with health care, including any specifically recommended and necessary immunisation and any necessary medical and dental attention. Where necessary, this will include registering the child with a GP and entering into a contract with a general dental practitioner to enable



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the child to be offered the full range of NHS dental treatment. This contact will need to be renewed annually. In the case of children with a disability and those with special needs, consideration must be given to continuity of specialist care. Use of health services should be the same for the child being looked after or accommodated as it is for any other child. An informed and sensitive approach is especially necessary for these children since they will often have suffered early disadvantage and may be at risk because they have not received continuity of care.

- 2.23 The responsible authority's plan for the child should include health care arrangements which should be kept under review (see regulation 6 of, and Schedule 3 to, the Review of Children's Cases Regulations. Responsible authorities should make arrangements for professional advice to be available to interpret health reports and information, assist in preparing and reviewing the arrangements for health care and assist in decisions relating to the child's care. One way of providing for this would be to agree that a designated doctor should undertake this work.
- 2.24 Responsible authorities should be alert to the health care needs of children from ethnic minority groups and make sure that they receive appropriate health care. Social workers should put carers in touch with a named health professional who can provide carers with an understanding of particular health conditions and help them to respond appropriately to such conditions.
- 2.25 Responsible authorities are required by regulation 7 of the Arrangements for Placement of Children (General) Regulations to arrange for a medical examination and written health assessment of a child before placement if reasonably practicable unless an assessment has been carried out within the last three months (but see also paragraphs 2.28-2.30). In the case of an immediate placement, the responsible authority should arrange for a health assessment as soon as possible thereafter. Responsible authorities should liaise with GPs in order to ensure that they are aware that the written medical report needs to be a comprehensive health profile of



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the child. The health assessment may be an initial assessment when a child is first placed or may be a reassessment in the case of a child who has been placed for some time or who has been placed again after an interval. The aim of this requirement is to provide a comprehensive health profile of the child and provide a basis for monitoring the child's development whilst he is being looked after or accommodated.

- 2.26 There is a requirement in regulation 6 of the Review of Children's Case Regulations for medical examination and written health assessment of children during placement to take place at least once in every period of six months up to the child's fifth birthday and at least once in every period of twelve months thereafter. It is recommended that medical examinations and written health assessments of children under school age should be guided by the schedule of development surveillance prescribed by the Trust in which the child is placed. It is also recommended that medical examination and written health assessment should take place prior to each change of school or at intervals specified in the care plan for the child. The care plan may also specify additional requirements in relation to medical examination and written health assessment which take into account the particular health needs of individual children.
- 2.27 These requirements provide only a basic framework for practice. Arrangements for ensuring that children receive proper health care during placement will involve the responsible authority, parents, the child, other carer, GP, health visitor, the school health service and, depending on the child's needs, specialist and domiciliary services. Responsible authorities should establish arrangements to ensure that information relating to a child's health is communicated to all health professionals who are involved with the child.

Consent to medical examination or treatment

- 2.28 Responsible authorities must have clear policies and procedures in relation to consent to the medical examination and treatment of children (with particular reference to emergency or urgent treatment)



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who are placed by them and should make these known to the child's carers. The arrangements for this should be clearly set out in each plan or agreement. These will vary according to whether a responsible authority does or does not have parental responsibility for the child. The arrangements should enable carers to seek and obtain any specifically recommended immunisations or medical or dental treatment for a child, without delay or confusion. There may be occasions when parents refuse consent to a medical examination or treatment and the child is not of sufficient understanding to make the decision. In such cases where a child is in care and the Trust has not acted to restrict the parents' exercise of parental responsibility under Article 52(3)(b) in this respect then it must do so to comply with the Review of Children's Cases Regulations and to ensure that necessary medical examinations and treatment are made available to the child. When a child is not in care and the parents refuse consent, the Trust may have to resort to obtaining an appropriate court order including for example, an Article 8 specific issue order, an emergency protection order or child assessment order.

- 2.29 The relevant individual health professionals should be aware of and co-operate with the arrangements which are made. The most convenient arrangement is likely to be where a carer has delegated authority from the parent or the Trust for routine treatment and minor procedures. If the parents hold the child's health record, it may be appropriate for it to be given to the carer for the duration of the placement. The need for operations and major treatment should be discussed with parents, and their consent obtained subject to the exercise by a Trust of its powers in Article 52(3)(b) in respect of a child in care. Parents should be kept informed of their child's state of health and it should be agreed in each case whether this should be done by the carer or the responsible authority.
- 2.30 Children of 16 and over give their own consent to medical treatment. Children under 16 may also be able to give or refuse consent depending on their capacity to understand the nature of the treatment; it is for the doctor to decide this. Children who are judged

able to give consent cannot be medically examined or treated without their consent. The responsible authority should draw the child's



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attention to his rights to give or refuse consent to examination or treatment if he is 16 or over or if he is under 16 and the doctor considers him of sufficient understanding to understand the consequences of consent or refusal. There is no prohibition on placement if it is impossible to persuade a child to be medically examined. It is, however, a responsibility of the responsible authority, and part of the carer's task, to help and encourage young people to understand the importance of health care and to take responsibility for their own health.

Education

- 2.31 Schedule 3 to the Arrangement for Placement of Children (General) Regulations sets out the considerations about a child's educational needs which form part of the planning process. Children who are looked after or accommodated have the same rights as all children to education, including further and higher education and to other opportunities for development. Some children's perception of their ability may have been undermined and their true potential may not be immediately evident. As children who may be damaged and vulnerable, they often need extra help and encouragement and opportunities to compensate for early deprivation and for educational disadvantage arising from changes of placement while in care. In planning for a child, responsible authorities should have regard to the importance of continuity of education and of taking a long-term view of a child's education, providing educational opportunities and support and promoting educational achievement. It is also important to recognise the value of peer group relationships made in educational settings. Responsible authorities have the responsibility of acting as good parents in relation to a child's education. Expectations should be realistic, but children must be helped and encouraged to achieve their full educational potential and equip themselves as well as possible for adult life.
- 2.32 Regulation 5 of the Arrangements for Placement of Children (General) Regulations requires responsible authorities to notify the appropriate education and library board of placement.



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Arrangements for liaison and co-ordination should aim to ensure that information reaches those who need it in good time, especially the school. Special care and support is needed where a change of school cannot be avoided. Responsible authorities should ensure that the carer's role and responsibility towards the child are understood by the school. In many cases and in day to day matters, carers will assume the parental role in relation to the school but there will be cases where parents continue to exercise their parental role. It will be up to the social workers to clarify such arrangements with the school if any confusion seems likely to arise, in order to avoid loss of confidence and co-operation.

- 2.33 Carers have an important contribution to make to a child's educational progress and development. They are in a good position to observe and to help identify and assess both the child's real capabilities and any difficulties, fears and deficiencies in attainment. Carers will need to be supported in this role. With the help of the carer and through school reports and direct contacts with the school, the child's educational progress must be kept under review along with other aspects of the child's welfare. Difficulties should be explored and help provided including, where appropriate, arrangements for access to specialist educational services.
- 2.34 Trusts should collaborate with education and library boards to safeguard the interests of children with statements of special educational needs under the Education and Libraries (Northern Ireland) Order 1986 and in accordance with sections 5 and 6 of the Disabled Persons (Northern Ireland) Act 1989. A Trust should ensure that the parents' rights are exercised in respect of requests for assessment, monitoring and reviews and should act in consultation with parents and carers, regardless of whether or not it has parental responsibility.
- 2.35 Children should be encouraged and given opportunities to develop and pursue leisure interests and any special gifts they may have, and to share in the activities of their peers. Even when a child is looked after or accommodated for a relatively short period, the aim should



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be to provide opportunities for development so that the child can benefit as far as possible from the placement and to identify the help the child may need to sustain new interests on return home.

2.36 Where a Trust proposes to place a child in an establishment at which education is provided for children accommodated there. Article 47 places a duty on the Trust to consult the appropriate education and library board prior to the placement and inform it of the arrangements that have been made for the child's accommodation. When the child ceases to be accommodated the Trust is required to inform the appropriate education and library board. The aim of this provision is to ensure that appropriate educational facilities are available for the child.

2.37 The appropriate education and library board means:

- (a) the education and library board within whose area the establishment is; or
- (b) where the child has special educational needs and a statement of his needs is maintained under the Education and Libraries (Northern Ireland) Order 1986, the education and library board which maintains the statement.

Religious, culture and racial background

2.38 A child's religious and cultural background and ethnic origins are important factors for consideration in any placement decision. It may be taken as a guiding principle of good practice that, for example, in any placement decision, placement with a family of similar religious or ethnic background is most likely to meet a child's needs as fully as possible and to safeguard his welfare most effectively. Such a family is most likely to be able to provide a child with continuity in life and care and an environment which the child will find familiar and sympathetic and in which opportunities will naturally arise to participate in a way of life which is familiar to the child.



2.39 The importance of religion as an element of culture should never be overlooked. To some children and families it may be the dominant factor so that the religion of foster parents, for example, may in some cases be more important than their ethnic origin. Where it has not proved possible to make a placement which entirely reflects the child's religion or racial background, an independent visitor could provide a link with the religious or racial background (if the criteria for appointing an independent visitor apply).

The planning process

2.40 A plan to meet the child's needs may exist before a specific placement is considered either because of the degree of service provision to the child living in the family home, or because the child is moving from one planned placement to another. Where no plan exists the planning process must begin once a child in need has been identified as being likely to require accommodation. Contingency planning for the possible accommodation of a child while efforts continue to support the family and keep the child at home may achieve a more successful and less disturbing transition for the child. The planning process should comprise the following typical stages: inquiry, consultation, assessment and decision-making. These are described in the following paragraphs.

Inquiry

2.41 Inquiry consists of:

- (a) working with the child and his parents, other members of the family (and other involved adults) to obtain their wishes and views. It is at this stage that work to develop partnership with parents, to encourage continuance of the parental role and to help the child and his parents share in decision-making must start. Patterns of working and attitudes established now will in most cases influence all future work;



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- (b) collecting information about the child and his family. The level of consultation will depend on the circumstances of the individual case. This will involve approaching relevant professionals such as the GP, school teacher, health visitor and police as well as relatives and family friends.

Consultation

- 2.42 When planning a placement it is essential to consult all those concerned with the child from the outset. The need for consultation should be explained to the parents and the child. The responsible authority should co-ordinate the involvement of all relevant agencies and individuals as well as the child so that a plan is drawn up which meets the child's individual needs.
- 2.43 Articles 26(2), 76(2) and 92(2) state that before making any decision with respect to a child whom it is looking after or proposes to look after or accommodate, the responsible authority should obtain and take account of the wishes and feelings of –
- (a) the child;
 - (b) his parents;
 - (c) any person who is not a parent of his but who has parental responsibility for him; and
 - (d) any other person whose wishes and feelings the responsible authority considers to be relevant.

The child

- 2.44 The child's views should be sought in discussion with the child, subject to the child's understanding (see Articles 26(2)(a), 26(3), 76(3)(a) and 92(3)(a)). It will always be necessary for the child's views to be discussed, recorded and given due consideration before a placement decision is made and at every review meeting and at



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case conferences. The implications and options in the plan should be explained, discussed and if necessary, reassessed in the light of the child's views. The more mature the child, the more fully will he be able to enter into discussion about plans and proposals and participate in the decision-making process. When older children are involved, and particularly in a case of self-referral, there may well be a different perception of the child's needs and interests as seen by the child and his parents. With young children, the social worker should make efforts to communicate with the child and discover his real feelings. All children need to be given information and appropriate explanations so that they are in a position to develop views and make choices.

- 2.45 Providing children with reassurance and helping them with their anxieties about a placement is essential to the success of a placement. Children should feel that they have been consulted, that their views have been properly considered and that they have participated as partners in the decision-making process. However, they should not be made to feel that the burden of decision-making has fallen totally upon them, nor should they be forced to attend meetings if they choose not to do so. The reasons for this choice should be explored so that they are given real opportunities to understand the good reasons for taking part in meetings. The possibility of the child being accompanied to a meeting by a person who is able to provide friendly support should be considered. Where the child has communication difficulties appropriate specialist provision will need to be made so that it is possible for the child to express his views. This could include someone with the appropriate communication skills such as a sign language interpreter. For a child whose first language is not English, an interpreter should be provided if necessary.

The family

- 2.46 Responsible authorities should ensure that the child's family, parents, grandparents and other relatives involved with the child are invited to participate actively in the planning process and make their views



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known. The Children Order requires that parents (including the unmarried father who may not have parental responsibility) should generally be involved in all planning for the child, and should be kept informed of significant changes and developments in the plan for the child. Similarly, members of the child's family or others who play a significant part in the child's life should be involved in the making of arrangements for the child. Such sharing of information and participation in decision-making should be the norm subject only to the overriding best interests of the child.

- 2.47 How far the views of those noted above influence outcomes will depend on the circumstances of the individual case. In child protection cases, parents' views about the proposed plan should not be allowed to prevent the Trust from carrying out its duty to protect the child. If agreement cannot be reached with the parents on a voluntary basis, and lack of agreement makes it impossible to implement a suitable plan, it may be appropriate to apply for an order under Parts V and VI of the Children Order.

Others

- 2.48 Responsible authorities will need to use their discretion to consult all the relevant agencies and persons involved or previously involved with the child and his family before a child is looked after or accommodated (Articles 26(2)(d), 76(2)(d) and 92(2)(d)). The responsible authority should explain and make sure that parents and children understand why there is a need to consult and what the consultation process involves. It is essential that other agencies involved with the child are consulted about the needs of the child and his family so that the proposed plan is based on as complete an assessment as possible. These may include:

- the child's general medical practitioner;
- the appropriate Trust, where it is proposed that the child (who is not looked after by that Trust) will be placed in its area;



- the appropriate education and library board (and school);
- any other person whose views the responsible authority considers should be sought, including extended family and previous carers.

2.49 Responsible authorities should seek to make contact with specific officers in other agencies who may be contacted when pre-placement inquiries are made and who will consult colleagues in the field involved with the child and report back. The parents and the child, if he is of sufficient understanding, should be informed of who is to be consulted and that the information gathered will be properly safeguarded. Existing carers, including foster parents, should already be involved in day to day planning for the child but a specific opportunity to contribute to formal planning or review considerations should be arranged.

Recording consultation

2.50 It is important that the information obtained during consultation is clearly recorded on the child's case record so that it will be easy for someone unfamiliar with the case to see;

- what the considerations in arriving at decisions were;
- how the objectives of the plan have been decided upon; and
- how proposals for achieving these objectives have been reached.

In this way the decision-making process will be clear and will assist line management supervision of the case.

Assessment

2.51 Using the information gathered together in the inquiry process it will be possible to make a full assessment of the child's needs in relation



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to safeguarding or promoting his welfare, taking into account any services the responsible authority or other agencies may already be providing. The assessment should link into other assessment processes to ensure that the child's specific needs are not addressed in isolation. The Children Order provides that a Trust may assess a child's needs for the purposes of the Order at the same time as any assessment under:

- the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;
- the Education and Libraries (Northern Ireland) Order 1986;
- the Disabled Persons (Northern Ireland) Act 1989; or
- any other statutory provision.

2.52 Joint assessment in appropriate cases will help to ensure that the child's needs are not addressed in isolation. Working in collaboration with other agencies will help to identify how the responsible authority and other agencies can best meet the child's needs.

2.53 In assessing the need for Trust provision of services due account needs to be taken of the particular needs of the child in relation to health, disability, education, religious persuasion, racial origin and cultural and linguistic background. Where necessary, specialist experience and expertise should be available in the staffing of services, or through relationships with other professionals, specialist services and community networks.

2.54 The publication *Protecting Children: A Guide for Social Workers Undertaking A Comprehensive Assessment* (HMSO 1988) contains much useful guidance which is applicable to all assessments of children by social workers.



Decision-making

2.55 Decisions made will be based on the outcome of full consultation and assessment processes and will consider whether there is a need to:

- provide services including, if appropriate, accommodation by voluntary agreement;
- take action to protect the child; this may include the provision of accommodation by voluntary agreement;
- make the child the subject of a compulsory court order.

2.56 Decision-making will entail:

- translating assessed needs into aims and objectives;
- appraising the specific options for achieving these objectives;
- deciding on the preferred option and setting out the reasons for the decision.

2.57 The proposed plan will explain in detail how the objectives can be achieved ie if and what sort of accommodation is needed; what other services for the child and services for parents or other members of the family or the child's carer need to be provided; services might be provided by other agencies such as a voluntary organisation; likely duration of the placement and arrangements for sustaining family links, promoting contact and reunification of the family.

Contents of the plan for the child

2.58 The Looking After Children (LAC) forms establish a format for a child care plan (see also the considerations in regulation 4 of, and Schedules 1-4 to, the Arrangements for Placement of Children (General) Regulations). The plan should be recorded in writing and contain the social history of the child and his family.



Agreements

- 2.59 Regulation 3 of the Arrangements for Placement of Children (General) Regulations which governs the making of arrangements (the plan) requires a responsible authority to draw up a plan in writing. Where a child is not in care the responsible authority should reach agreement on the plan with the parents, other person with parental responsibility, or if there is no such person, the person caring for the child. Regulation 4 governs the considerations on making and contents of arrangements and requires that, where practicable, the plan should include details of the matters specified in Schedule 4 to the regulations.
- 2.60 Where a child is provided with accommodation by voluntary agreement the plan should form the basis of a written agreement between the responsible authority and the parents or, if there is no such person, the person caring for the child prior to the provision of accommodation. The agreement must set out the role of the parents in the day-to-day life of the child. This will have been discussed and agreed in negotiation between the responsible authority and the parents with the involvement of the carer.
- 2.61 Regulation 5(3) of the Arrangements for Placement of Children (General) Regulations requires the responsible authority to produce a written copy of the agreement which incorporates the detail of the plan for the child and the arrangements made. There is no requirement for the agreement to be signed, but in cases where the parents, although consenting to the plan do not wish to sign the agreement, the responsible authority will wish to sign the document to indicate its commitment to the plan for the child. A copy of the agreement should be sent to the person with whom it is made. The child should also receive a copy in a form appropriate to his understanding. The older child of 16 or over should be encouraged to sign the agreement when he has referred himself to the Trust and is to be provided with accommodation by the Trust under Articles 21(3), (4) and 22(5). Again, there is no requirement that the agreement should be signed.



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- 2.62 In drawing up agreements which provide for the child to be accommodated, responsible authorities should have regard to Article 22 which sets out the powers of persons with parental responsibility in consenting to or objecting to accommodation arrangements.
- 2.63 An agreement should include arrangements for the child leaving accommodation, such as a period of notice to allow time for preparation of the child for this event and to ensure that the child's wishes and feelings are taken into account. An agreement should also include a statement of the steps to be taken if one party decides to change the agreement.
- 2.64 Although the regulations do not require a Trust to reach agreement on the planned arrangements for a child in its care, it is the intention, so far as is practicable, and in the child's best interest that arrangements should be made in partnership with parents. Where the interests of the child or the non-co-operation of the parents require that initial arrangements are made without agreement, part of the planned work should be to try to establish a working relationship for the future.

Notification

- 2.65 It is essential that those involved in the decision-making process are notified of the decision (regulation 5 of the Arrangements for Placement of Children (General) Regulations) so that they may have an opportunity to make any necessary arrangements for their involvement in the placement or to make their views on the placement decision known. Careful note should be taken of the provision in regulation 5(3) about the notification of information to third parties. Such notification should only contain the amount of information it is necessary to divulge. The responsible authority will need to identify others who were not involved in the decision-making process but who will be involved with the child and have a need to know of the placement arrangements. Consideration should be



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given, in the light of circumstances of an individual case, of the need to notify people who have been involved in the child's life but who are not specified in regulation 5.

- 2.66 The responsible authority should notify the Trust in whose area the child is placed and provide sufficient information for the Trust to fulfil its duties in respect of registration of placements. The responsible authority should notify the specific officer in other agencies already identified and consulted about these placements (see paragraph 2.49). These officers should be asked to disseminate the information as appropriate to their colleagues in the field who are or will be involved with the child including, in those cases where a child protection case conference has been consulted, the members of the case conference.
- 2.67 Once the plan has been decided upon, it should be notified in writing to the parents, the child, other carers, representative of other agencies involved with the child and others with a sufficient interest in the child. Good practice requires that the responsible authority's social worker explains personally to the parents and the child what the plan entails and the reason for reaching the decisions therein. This should be done in addition to any explanations given during the assessment and planning process.
- 2.68 When a child or parent has only a limited understanding of English, an interpreter may be required. Sensorily impaired children and adults may need a specific format of any formal written notification. For blind or visually impaired people it could be Braille, on tape or in large print. Deaf or hearing impaired people have a range of communication needs depending on the type of deafness and the age of onset. Appropriate provision should be made for a child or parent with such communication difficulties. This may range from making available someone who is a clear speaker with understanding and knowledge of the speech and language difficulties of hearing impaired people, to an accredited sign language interpreter. Interpretation resources will also be required for a child who uses the Makaton system.



Format of notification

- 2.69 The written notification of the agreement (or of the plan if no agreement has been reached) should include:
- a summary of the proposed arrangements and the objectives covering details of the placement and its likely duration;
 - arrangements for contact;
 - who is responsible for implementing the plan;
 - the role of the child's parents on a day-to-day basis;
 - arrangements for, or issues of, reunification; and
 - contingency plans if the placement is unsuccessful.
- 2.70 Where a child is provided with accommodation by voluntary agreement, the notification should also set out the arrangements for ending the placement. In exceptional circumstances where a child is in care or subject to an emergency protection order, the carer's name and address may be omitted from the notice. This would be when the Trust has reasonable cause to believe that informing a person would prejudice the child's welfare (Article 29(4)). Where it is necessary to take such an exceptional step to safeguard a child's interests, the circumstances and reasons should be recorded on the child's case record and notified to the parents in writing. The letter of notification should also refer to the representations procedure which each Trust is required to set up under the Children Order (see Chapter 11). It will be helpful to enclose an information leaflet so that the parents, the child and others notified of the arrangements are aware of the channel open to them for making representations or complaints.



Implementation of decisions arising from the plan

- 2.71 One of the most important aspects of planning is to ensure that the decisions arising from the plan are implemented. This is best done by ensuring that all those involved in the planning and subsequent review process know clearly who is responsible for implementing which decisions and when. The value of the plan will diminish if objectives are not met because there has been poor communication, lack of clarity about who is responsible for what and the relevant timescales.

Monitoring the support and supervision of the placement

- 2.72 The regulations relating to specific placements provide for support and supervision of the placements. Arrangements must also provide for line management supervision and monitoring of the social worker's performance in supporting and supervising the placement. Good records will play a key part in this appraisal of the social worker's performance in relation to the placement's aims and objectives. The examination of records by the line manager should precede as well as accompany periodic discussions about the placement.

Inter-agency arrangements

- 2.73 Where a child is placed by a Trust ("the transferring Trust") under the Arrangements for Placement of Children (General) Regulations in the area of another Trust ("the receiving Trust") the transferring Trust should inform the receiving Trust of the placement and provide sufficient information for the receiving Trust to be able to complete its register in accordance with regulation 10. The transferring Trust should notify also the other relevant authorities, the appropriate education and library board etc of the placement and arrangements for supervision.



Placement outside Northern Ireland

- 2.74 A Trust may arrange (or assist in arranging) for a child for whom it is providing accommodation by voluntary agreement to live outside Northern Ireland with the approval of every person who has parental responsibility for the child (Article 33(2)). In the case of a child who is in care, the court's approval must be sought (Article 33(1)). This may only be given in certain circumstances, namely where every person with parental responsibility for the child consents or consent is dispensed with under Article 33(5); the child himself consents (if he has sufficient understanding); suitable arrangements have been made for the reception and welfare of the child in the new country and living there would be in the child's best interests (Article 33(3) and (4)).
- 2.75 Where the child is moving to another jurisdiction (ie to England, Wales, Guernsey or the Isle of Man) the effect of the care order may be transferred to the relevant public authority in the receiving jurisdiction by virtue of regulations made under section 101 of the Children Act 1989 or Article 180 of the Children Order (the Children (Prescribed Orders – Northern Ireland, Guernsey and Isle of Man) Regulations 1991 (S.I. 1991/2023) and the Children (Prescribed Orders – Isle of Man and Guernsey) Regulations (Northern Ireland) 1996 respectively). The transfer of care orders to Scotland will continue to be effected under the Social Work (Scotland) Act 1986 until such time as section 33 of the Children (Scotland) Act 1995 and regulations under that section are brought into operation.

Records

- 2.76 Accurate, comprehensive and well-organised records are essential to good practice. They are the basis for a clear and common understanding of the plan for the child, the arrangements made, agreements reached and decisions which have been made and the reasons for them. Careful recording of agreements and decisions enables the implementation of planning decisions to be monitored



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effectively and kept under review. The responsible authority's records will be one importance source of information for the child who is permanently placed away from his birth family.

2.77 Regulations 8 and 10 of the Arrangements for Placement of Children (General) Regulations require responsible authorities to keep two sets of records;

- (a) a case record for every child placed by the responsible authority; and
- (b) a register of all children in the Trust's area who are placed under these regulations whether by the Trust, or another responsible authority, and of all children placed by the Trust outside its area.

Different requirements in respect of registers apply to voluntary organisations and privately run children's homes. The detail of regulations 10(2) and 10(4)-(7) should be studied.

Registers

2.78 The register provides a record of the identity and whereabouts of every child placed by a responsible authority. A Trust's register will provide a means of immediate reference to basic information about any child placed in an area as a Trust has to register children placed by it and other responsible authorities in its area. A Trust has also to register children placed by it outside its area.

Case records

2.79 A child's case record should include all the information about family history, involvement with the responsible authority and progress which is relevant to the child being looked after or accommodated. The case record will be an integrated case record for all purposes. Regulation 8(2) requires that the case record contains:

- (a) a copy of the arrangements made for the child (the plan);



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- (b) copies of any written reports in the responsible authority's possession concerning the welfare of the child; this will include family history and home study reports, reports made at the request of a court, reports made of visits to the child, his family or his carer, health reports etc;
- (c) copies of all the documents used to seek information, provide information or record views given to the authority in the course of planning and reviewing the child's case and review reports (see also regulation 10 of the Review of Children's Cases Regulations);
- (d) details of arrangements for contact and contact orders and any other court orders relating to the child; and
- (e) details of any arrangements made for another agency or person to act on behalf of a Trust or organisation which placed a child.

It is recommended that any contribution the child may wish to make such as written material, photographs, school certificates etc should also be included.

- 2.80 The record should be kept in such a fashion that it is easy to trace the process of decision-making and in such a way that the views of the child and his parents can be easily found and related to the sequence of decisions taken and arrangements made. In addition, any papers temporarily placed in the record which are the property of the child should be identified as such and marked for return at the appropriate time.
- 2.81 The child's record should be separate from management records, records relating to a foster parent or residential care matters which are not solely concerned with the individual child. Where some information contained in these other records is relevant to the child a duplicate entry should appear in the child's record. Records should not be amalgamated even in the case of siblings although a degree



of cross-reference and duplicate entry will be necessary.

Safekeeping of records

- 2.82 Regulation 9 of the Arrangements for Placement of Children (General) Regulations requires that responsible authorities should take steps to ensure the safekeeping of records. This requires not only arrangements for the physical security of the records but effective procedures to restrict access to the records to those who are properly authorised and need access because of their duties in relation to a case.

Access to records

- 2.83 The Children Order requires responsible authorities to give access to records to persons duly authorised by the Department (such as the Social Services Inspectorate) and to guardians *ad item* appointed by the court. The Data Protection Act 1984 and the Access to Personal Files Act 1987 gives individuals rights of access to certain information about themselves. The Data Protection Act applies only to computerised records. The Data Protection (Subject Access Modification) (Social Work) Order 1987 (SI 1987/1904) provides for certain information to be exempted in prescribed circumstances from the right of access as does the Data Protection (Miscellaneous Subject Access Exemptions) Order 1981 (SI 1987/1906) which maintains existing restrictions, including those in relation to adoption records.
- 2.84 The Access to Personal Files Act 1987 and the Access to Personal Files (Social Services) Regulations 1989 similarly provide for subject access to information which is kept manually by Trusts (not voluntary organisations or persons who carry on a privately run children's home) and detail the circumstances in which information is exempt from the right of access.



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- 2.85 Responsible authorities should act in accordance with the above guidance and with their own legal advice in matters relating to the disclosure of information. It is good practice that information held about an individual should be shared with that person unless the special reasons for withholding it are covered by the legislation and guidance mentioned.

Retention of records

- 2.85 Regulations 9 and 10 of the Arrangements for Placement of Children (General) Regulations specify the length of time for which records are to be kept. These should in some cases be regarded as minimum periods rather than an inflexible rule. Responsible authorities should consider their policies on retention in relation to their records as a whole and to individual records, bearing in mind the purpose and value of retaining the various records.
- 2.87 Entries in the register must be kept until the child to whom the entry applies reaches the age of 23 or for five years after the death of the child before reaching that age.
- 2.88 The child's case record must be kept until the seventy-fifth anniversary of his date of birth or 15 years from the date of death in the case of a child who dies before reaching the age of 18.



CHAPTER 3: REVIEW OF CHILDREN'S CASES

- 3.1 This chapter deals with the review of children who are looked after by a Trust or accommodated by a voluntary organisation or a privately run children's home. Reviews form part of a continuous planning process – reviewing decisions to date and planning future work. The purpose of the review is to ensure that the child's welfare is safeguarded and promoted in the most effective way throughout the period he is looked after or accommodated. Progress in safeguarding and providing for the child's welfare should be examined and monitored at every review and the plan for the child amended as necessary to reflect any significant change.
- 3.2 The Review of Children's Cases Regulations (like the Arrangements for Placement of Children (General) Regulations) apply to Trusts which are looking after children and to voluntary organisations and privately run children's homes which accommodate children not looked after by a Trust. For the purpose of this guidance "review" means review under the Review of Children's Cases Regulations. "Responsible authority" means a Trust, voluntary organisation or person carrying on a privately run children's home. Where the guidance deals with a matter which is not equally applicable to all groups, this is made clear. Unless otherwise stated, any reference in this chapter to a regulation means the Review of Children's Cases Regulations.

What is a review?

- 3.3 A review is a continuous process of planning and reconsideration of the plan for the child. Review will include a number of components leading to meetings held to discuss the plan which has been drawn up for a child who is being looked after or accommodated by a responsible authority. This will require consultation and the gathering of information on an ongoing basis, discussing that information and making decisions to amend the plan as necessary. Any meeting which is convened for the purpose of considering the child's case in connection with any aspect of the review of that case falls within the scope of the Review of Children's Cases Regulations.



Requirement to review and frequency

- 3.4 Regulation 2 places a specific statutory duty on the responsible authority to review the case of a child who is looked after or accommodated in accordance with the regulations. Regulation 3 sets out the maximum intervals between reviews. The first review should take place within two weeks after the date on which the child begins to be looked after or is provided with accommodation. In the case of a child looked after by a Trust this will bring together the assessment and planning that has been taking place since the child was identified as being in need of the Trust's services. The second review should take place not more than three months after the date of the first review. Thereafter, subsequent reviews should take place at intervals of not more than six months after the date of the previous review.
- 3.5 The frequency of reviews required by the regulations is the minimum standard and a review of the child's case should take place as often as the circumstances of the individual case requires. If the need arises for substantial changes to the plan, then the date of the next review should be brought forward. Parents and children should be consulted on a regular basis about the need for additional reviews. Any request for an additional review from a parent or a child should be given serious consideration.

Short-term placements

- 3.6 Regulation 11 allows for a defined series of short pre-planned placements (eg for respite care or "staying contact") to be treated as a single placement for the application of the regulations and those relating to specific placements. The requirements of the review regulations apply, but need not be repeated for each episode of accommodation so long as the conditions in regulation 22 are met. The conditions in regulation 11 are:
- (a) all the periods are included within a period which does not exceed one year;



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- (b) no single period is for a duration of more than four weeks; and
- (c) the total duration of the periods does not exceed 90 days.

3.7 All the placements should take place with the same carer for a family placement and at the same establishment for a residential placement. Similar provision is made for short-term placements in the regulations relating to specific placements.

A system for reviews

3.8 Each responsible authority will wish to consider the Looking After Children (LAC) forms or, exceptionally, to revise its present arrangements to ensure that it provides a system for review of children's cases which will satisfy the requirements of the Children Order and regulations 4, 8, 9 and 10 as described below. In revising existing arrangements or establishing new procedures, responsible authorities should ensure that their review system provides for:

- the full participation of both children and parents in the decision-making process;
- a structured, co-ordinated approach to the planning of child care work in individual cases; and
- a monitoring system for checking the operation of the review process.

3.9 Regulation 4 sets out how cases are to be reviewed and requires that the arrangements should be in writing and made known to children, parents, other persons with parental responsibility, other persons whose views the responsible authority considers relevant and those involved in conducting reviews of children's cases (regulation 4(1)). The responsible authority is required by regulation 4(2) to co-ordinate review action and by regulation 4(3) to appoint an officer to achieve that co-ordination. The responsible authority need not make a special



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appointment to deal with these duties. For example in the case of Trusts, it is suggested that senior officers are designated to fulfil this role in each management area of the Trust. These officers could combine this role with their other duties.

Preparations for a review

- 3.10 Before a review is arranged the field social worker responsible for the case, in discussion with his line manager, should identify who should be invited. Only in exceptional cases should a parent or a child not be invited to a review meeting. In such cases the reasons for this decision should be recorded. The first review meeting is the occasion on which the planning process is most clearly illustrated as being inseparable from the review process. It is the first opportunity to confirm formally that the plan is meeting the child's needs. Those to be invited should include those who have been consulted (including the child and his parents) in drawing up the initial plan and who may need to contribute to the review.

Consultation

- 3.11 As with planning, it is essential that there is full consultation with all the relevant individuals before the review meeting is held. There should be a written record kept on the child's case record of the results of the consultation exercise before each review meeting. Appropriate provision should be made for children and parents with communication difficulties or whose understanding of English is limited. Articles 26(2), 76(2) and 92(2) state that before making any decision with respect to a child looked after or accommodated by a responsible authority the responsible authority should obtain and take account of the wishes and feelings of:
- (a) the child (subject to his age and understanding and so far as this is in his best interests);
 - (b) his parents;



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- (c) any person who is not a parent of his but who has parental responsibility for him;
- (d) any other persons whose wishes and feelings the responsible authority considers to be relevant.

Any other person may include:

- the child's current carer (foster parent or residential social worker);
- the independent visitor (if one has been appointed);
- the appropriate Trust where it is proposed (or it is the case already) that the child will be looked after in its area;
- the appropriate education and library board;
- the child's teacher (in relevant cases);
- any other person whose views the responsible authority considers should be sought (for example, a representative from a voluntary agency, RUC care unit, housing officer or community leader).

(See Chapter 2 paragraphs 2.42-2.50 which contain guidance on consultation in relation to the Arrangements for Placement of Children (General) Regulations which is equally applicable to the Review of Children's Cases Regulations).

- 3.12 Where it is considered that written views or reports will be adequate these should be sought and obtained in time for the review. Any relevant information which needs to be circulated before the meeting should be sent out with the agenda (see paragraph 3.14 below). Arrangements should already be in place to ensure the continuous collection of information as part of the planning system rather than as a separate one-off exercise for a review.



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Who chairs a review?

- 3.13 A review should be chaired by a member of staff above senior social worker level. The field social worker responsible for the child's case and that person's supervisor should be in attendance. The intention is that the role of the chairperson will bring a degree of oversight and objectivity to the monitoring of the responsible authority's practice and decision-making in relation to the plan for the child.

Agenda

- 3.14 It will be useful to have a checklist or agenda of the issues for discussion at a review meeting which is circulated in advance to those attending including the parent and the child. Items for the agenda will arise out of the considerations for discussion in paragraphs 3.19 and 3.20 below. This will help to ensure that no issues are overlooked and that those attending the meeting are prepared to discuss and consider the relevant issues. The use of a list or agenda should not become exclusive or inhibiting. Those present should be free to raise issues they consider to be important.

Who should attend?

- 3.15 Regulation 7(2) requires the responsible authority, where it considers it appropriate, to involve the child and his parents in review meetings. The involvement of the child will be subject to his understanding and welfare. The possibility of a child being accompanied to a review meeting by a person who is able to provide friendly support should be considered. Where a child's welfare would be prejudiced by his parents' attendance at the same time as the child, separate attendance may be arranged. The attendance of the child and his parents at review meetings will be the norm rather than the exception (subject to the reservations already expressed). It is expected that the parents and the child (if he is of sufficient understanding) will be present at the whole of the review, but this will depend on the circumstances of each individual case. The involvement of the parents and the child in review meetings is in line with the basic



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philosophy of the Children Order in relation to the participation and wishes and feelings of the child and his parents, and the spirit of partnership between responsible authorities and parents.

- 3.16 The flexibility given to responsible authorities in the regulations regarding the attendance of the child and parents at review meetings recognises that in a few cases their attendance will not be appropriate or practicable. This may be the case if there is a clear conflict of interests which might militate against the attendance of either the child or the parents or both. However, the fears of inhibitions of professionals should not be the reasons for excluding a child or his parents from a review. Alternative arrangements should be considered. Any decision to exclude the child or the parents from a meeting (or part of a meeting) should be discussed and agreed with the chairperson. If a parent or child is excluded from a review, a written explanation should be given with a copy placed on the child's case record or other arrangements made for their involvement in the review.
- 3.17 In addition to the parent and child, the child's carer should be invited. Others with a legitimate interest in the child should also be invited if they have a contribution to make which indicates that they should take part in the discussions at the review meeting. This may apply, for example, to the child's GP, health visitor, child psychologist, schoolteacher, foster parent, residential social worker, independent visitor (if appointed) or ethnic minority representative. The attendance of such persons should always be discussed with the child before invitations are made and his views on their attendance obtained. It may be appropriate where the contribution from such persons is strictly factual for the information to be provided in writing. Where a long-term plan has been set in place, a small group (those consistently and constantly involved with the child) should be identified as essential attenders at the next and subsequent review meetings. In the majority of cases, the group will consist of the social worker, the child, parents, the chairperson and the carer (if different from the parents).



Venue for a review meeting

- 3.18 Meetings should be arranged at a place (and time) which will be the most likely to provide a setting and atmosphere conducive to the relaxed participation of all those attending. Particular regard should be paid to the needs of the child who should always be asked for his views about the venue. Arrangements should be made to secure the attendance of those identified as necessary to the particular view and allow serious discussion and planning to take place. Consideration should be given to assisting parents with travelling costs or the provision of other support, such as a child minder, if there would otherwise be difficulty for a parent in attending a review (Article 30 may be relevant).

Matters for consideration in a review

- 3.19 The primary matter for consideration at the review is the plan for the welfare of the child (under the general welfare duties placed on responsible authorities by Articles 25, 76 and 92). At the first review this will be done by examining and confirming the plan, with or without amendments. Subsequent reviews will be occasions for monitoring the progress of the plan and making decisions to amend the plan as necessary in the light of changed knowledge and circumstances. As the reason for planning and review is to safeguard and promote the welfare of the child the matters for consideration when planning and reviewing a case are nearly identical. After the first review, a review should always include consideration of progress made since the previous review – whether the goals and tasks set have been achieved and if not, why not and what action is needed.
- 3.20 Schedule 2 to the regulations provides a checklist of matters for consideration at the review which is not comprehensive or exclusive but sets the minimum requirements. In addition, the review must consider matters specified in the Children Order relating to the welfare of the child. Other matters will arise in individual cases which



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it is not possible to cover in a list of general application. The matters covered by Schedule 2 and the relevant statutory provisions are:

- an examination of the responsible authority's plan for the child in relation to the wishes and feelings of the child and having regard to his understanding;
- an examination of the responsible authority's plan for the child in relation to the wishes and feelings of the parents;
- whether the plan fulfils the responsible authority's duty under Article 26(1), 76(1) or 92(1) to safeguard and promote the child's welfare;
- where the child is in the care of a Trust, whether or not the care order can be discharged or varied to a lesser order;
- whether the placement continues to be appropriate;
- the views of the child's carer;
- whether the plan makes necessary provision for the child's religious persuasion, racial origin and cultural and linguistic background;
- where a child is looked after, whether the plan takes account of the duty under Article 27(7) to enable the child to live with a parent, other person with parental responsibility, relative, friend and, where the child is in care, a person in whose favour a residence order was in force immediately before the care order was made, or other person with a legitimate interest in the child;
- the arrangements made for contact and where the child is looked after by a Trust with regard to the duty on the Trust in Article 29 to promote and maintain contact between the child and his family;



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- where a child is looked after, the views of an independent visit if one has been appointed, and if not, whether to appoint one;
- whether the plan takes account of any particular needs the child may have, eg if the child has a disability;
- the arrangements made for the child's health (including consent to medical examination or treatment);
- the arrangements made for the child's education;
- the arrangements, if any, for financial support of the placement;
- where the child is provided with accommodation by voluntary agreement, whether or not the arrangements for the involvement of the parents in the child's life are appropriate; whether the social worker needs to encourage greater exercise of the parents' continuing responsibility to the child; whether or not there is still a need for accommodation or whether another sort of service would be more appropriate, or whether there is a need (for a Trust) to take care proceedings;
- reunification of the child with his parents and family;
- where a child has been in an agreed placement (not in care) for some time, whether the existing plan ensures that the child and the carer have an adequate sense of stability; whether the carer should seek a residence order, for example; and
- where appropriate, arrangements for aftercare.



Report of a review

- 3.21 Regulation 10 requires that a written record of each review is drawn up and put on the child's case record for further reference. The record of the review should have attached to it the results of the consultation exercise, including any written reports submitted. It should be clearly noted whether the child and his parents were invited to the review, if they were not, the reason why not, whether they attended and what views they expressed on each of the agenda items. Any dissenting opinion should be recorded with an explanation of the rationale of decisions taken. The chairperson should check the record of the review to ensure that an accurate, comprehensive record is placed on file and, in particular, that any necessary action has been correctly identified and tasks allocated.

Notification

- 3.22 Regulation 7(3) requires that the child, his parents, others with parental responsibility and other persons considered appropriate are notified of the result of the review and decisions taken in consequence of the review. It may be necessary to notify third parties of the result of the review. Care should be taken to provide only that information which the third party needs to know.
- 3.23 The notification of the result of each review meeting should be a written summary of the main points of the written report of the review which makes clear who is responsible for implementing decisions arising from the review and the relevant timescales. The field social worker responsible for the case should supplement this written notification by explaining in advance, wherever possible, to the parents and the child, the decisions taken at the review meeting and the reasons for these decisions, even if the parents and child were present for all or part of the meeting. Where they were not present, it will be particularly important to do this. It is recommended that this notification is sent no later than 14 days after the review has been held. The notification should indicate whom the child or parent should contact if there is disagreement about any of the decisions taken.



Implementing decisions

- 3.24 As part of the review system each responsible authority will need to set in place arrangements for implementing decisions made in the course of a review of a child's case (regulation 8). Education and library boards, the Northern Ireland Housing Executive and others have a duty under Article 46 to comply with a request from a Trust for help in the exercise of its functions under Part IV of the Children Order. Article 47 imposes duties on Trusts to consult the appropriate education and library board before they accommodate a child in an establishment which provides education. All responsible authorities will need to make specific arrangements to secure the co-operation of all others who have a role to play in implementing the plan for the child.

Disagreements

- 3.25 Where disagreements arise in the course of the review process between the child and parents, the child and the responsible authority or the parents and the responsible authority, the responsible authority should make every effort to resolve these by explaining fully the reasons for its decisions. When a disagreement cannot be resolved, the responsible authority should ensure that the child (where he is of sufficient understanding), parents, carers and others involved with the child are aware of the representations procedure and are given advice and assistance as necessary (see Chapter 11).

Monitoring the system

- 3.26 Responsible authorities are required by regulation 9 to set in place a system for monitoring the operation of the review system. Where the review of an individual case and the implementation of decisions will involve sharing information and action with others the monitoring of the responsible authority's review system will be a matter for that responsible authority alone. The purpose of the monitoring exercise



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is to assess how far the system has achieved the objective of ensuring good management of individual cases, to provide an indication of the quality of practice, how far practice reflects the responsible authority's policies and service priorities and to afford an overview of effectiveness in decision-making and social work practice.



CHAPTER 4: FOSTERING SERVICE

- 4.1 Foster care is frequently the preferred way of providing care and nurture for children who need to be looked after by a Trust. Foster parents may more appropriately be called foster carers or care givers in some circumstances and schemes. However, this guidance, to be consistent with the primary legislation and the regulations, uses the legal, familiar and widely-used term “foster parents”. Fostering is a skilled task requiring training and support. Attention is drawn to the SSI paper “Quality Living Standards For Services: Children Living In A Family Placement” (June 1996) in order to ensure the consistent application of standards across all fostering agencies. Foster parents play an important role in the professional team concerned with a child’s care. The regulations do not require the establishment of a distinct fostering service. They do, however, separate the functions of approving the foster parent and approving the individual placement for the child.
- 4.2 The Foster Placement (Children) Regulations replace the Children and Young Persons Board-Out Regulations (Northern Ireland) 1976. The regulations provide for approval of a foster parent rather than a household. Any Trust or voluntary organisation which is also the responsible placing agency (an approving authority) can approve a foster parent but a foster parent cannot then be approved by any other agency. Any Trust or voluntary organisation (a responsible authority) may place a child with an approved foster parent subject to the consent of first, the approving authority and second, any other responsible authority which at present has a child placed in the foster home. A responsible authority, in relation to a child means the Trust or voluntary organisation responsible for the placement of the child under Articles 27(2)(a) or 75(1)(a) of the Children Order (regulation 1(2) of the Arrangements for Placement of Children (General) Regulations). In this guidance, “authority” means a responsible authority. Trust and voluntary organisation are used where applicable. An approving authority means the Trust or voluntary organisation responsible under regulation 3 for approving (or not approving) the foster parent. A private or “independent” fostering agency may **not** approve foster parents.



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- 4.3 The arrangements offer scope for co-operation between the authorities and the foster parent, while introducing safeguards against indiscriminate and ill-considered shared use of foster homes. They also effectively give the approving authority “first call” on the foster home by giving it a veto on further use which in the view of the approving authority would jeopardise the welfare of the child or children already placed. There must, of course, be no interference with the freedom of the foster parent to choose to work for one agency rather than another. If agreement cannot be reached between the parties, the foster parent may ask for approval to be terminated and seek approval from another agency. The arrangement should also afford foster parents some protection from feeling under pressure to accept responsibilities which may be too much for them and their families, and may not be in the best interests of the children placed. The effective operation of the arrangement requires a measure of trust between responsible authorities and means that if a second responsible authority and a foster parent wished to propose a development of the foster parent’s terms of approval, the decision would lie with the approving authority.
- 4.4 Regulation 3 of the Foster Placement (Children) Regulations provides that children may be placed only with a foster parent who has been approved in accordance with the regulations. The only exception is where an immediate placement is made by a Trust under regulation 11. A foster parent may not be approved unless the approving authority is satisfied that he is suitable to act as a foster parent and his household is suited to the placement of a child.
- 4.5 Each responsible authority will have its organisational and procedural arrangements, including management and staffing structures, for the recruitment, assessment, approval, preparation, training and support for foster parents. These arrangements make up what may be described informally as a foster service. Responsible authorities should ensure that policies, structures and arrangements for delegation provide for proper consideration of the critical decisions which fall to be made in respect of the approval and review of foster parents, placement, and when appropriate, termination of placement.



- 4.6 Procedures for regular review of the pool of foster parents available should ensure that plans for recruitment and training are responsive to future need. Information from reviews of approved foster parents will contribute to identifying strengths and deficiencies in the fostering service; providing information about forthcoming changes in the availability of existing foster homes; and giving foster parents an opportunity to contribute to planning and developing the service.

The fostering task

- 4.7 Clear agreements should be reached with foster parents on the aims of the placement to avoid frustrations arising from mistaken, confused or disappointed expectations. In particular, the continuing role of the parents in the child's life and the precise arrangements to ensure that parental responsibility is not diminished must be explained and agreed. Short-term, respite and long-term placements are convenient descriptive terms and are used as such in this guidance. They are insufficiently precise, however, for the purposes of planning for individual children. Planning needs to address the aim of the placement, any specific tasks associated with the aim and the expected duration of the placement. Under the Arrangements for Placement of Children (General) Regulations, the plan for the child, which is the basis of agreements with parents and foster parents, must include the expected duration of placement.

Recruitment

- 4.8 Methods of recruitment will vary according to local needs and preferences but are likely to include the following:
- (a) general publicity and information designed to raise community awareness and understanding of fostering and the needs of children;
 - (b) recruitment campaigns for foster parents in general or for special schemes or needs or to seek placement for a specific child;



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- (c) meetings at which interested people can learn more about fostering and meet experienced foster parents;
- (d) involvement of established foster parents and local foster parent groups in publicising fostering and recruiting other foster parents.

Publicity and recruitment

- 4.9 Publicity and recruitment campaigns should aim to reach all groups in the community, especially where there is or may be a need for foster parents from a particular religious, cultural or racial group. Trusts are required by paragraph 12 of Schedule 2 to the Children Order to have regard, in publicising and recruiting for the fostering service, to the different religious or racial groups to which children in need in the area belong. Where placements are needed or likely to be needed for children of a particular religious or racial group, sustained efforts will be needed to recruit a sufficient number and range of foster parents from those groups. The development and planning of fostering services should aim to ensure that the resources of the service, including the arrangements for the recruitment, assessment, approval, preparation and support of a pool of foster parents, are responsible to the demands on the service. Appropriate assessment and training must be available for all foster parents.
- 4.10 General recruitment campaigns may result in the identification of foster families particularly suited to care for the child with special needs. However, it may be necessary to target recruiting by advertising in magazines and other specialist media. Other things being equal it may be that a foster parent with experience of a disability similar to the child's will have a particular understanding and knowledge which will benefit the child. Consultation with relevant organisations representing the interests of children with a disability will assist responsible authorities to devise appropriate recruiting campaigns.



- 4.11 Responsible authorities should develop policies and guidelines on publicity aimed at recruiting foster parents for individual children. These should ensure that the wishes and feelings of children and their families are properly considered to guard against disclosure of confidential information.
- 4.12 There is scope for inter-agency co-operation and co-ordination in joint publicity and family finding campaigns and for agreements between Trusts and voluntary organisations. Such arrangements can help avoid costly duplication of effort.

Assessment

- 4.13 Trusts and voluntary organisations responsible for assessing and approving foster parents should have written guidance outlining procedures and issues to be explored in the assessment process. All those making an inquiry should be given a positive and welcoming response. Where an applicant's preference does not meet the service's immediate identified need, mutual exploration of the range of need may lead some applicants towards undertaking a different kind of fostering. It may be appropriate to consider whether, as an alternative to fostering, applicants might be encouraged to consider offering their services to befriending schemes or other voluntary activities. Recruiting agencies should retain the names of all those making an inquiry for consideration in respect of future needs. Information giving and assessment processes should enable applicants to opt out after learning more about the expectations of foster parents and the role and nature of the fostering task. When applicants make formal application to become foster parents they should be given a clear understanding of:
- the inquiries and investigations to be made;
 - the records which will be kept;
 - the selection process;
 - the nature and purpose of social work visits; and



- the timescale of the assessment.

- 4.14 Regulation 3 of the Foster Placement (Children) Regulations requires responsible authorities to obtain information on, and consider the range of, factors set out in Schedule 1 to the regulations in order to determine whether an applicant can be considered suitable to be a foster parent and whether his household is suited to the placement of a child. Regulations are framed in terms of a single foster parent but are subject to the provision in section 37 of the Interpretation Act (Northern Ireland) 1954 that the singular includes the plural and the masculine gender includes the feminine gender and vice versa “unless the contrary intention appears”. Where an applicant is married, both partners should be assessed and approved. The same principle should be followed whenever responsibility for the care of the child is shared by two people in a household, for example, mother and daughter. The aim should be to identify all the factors which contribute to a general picture of the applicants, their family and way of life.
- 4.15 Responsible authorities and those interested in becoming foster parents must understand that the unambiguous duty of the responsible authority is to find and approve the most suitable foster parents for children who need family placement. No one has a “right” to be a foster parent. Fostering decisions must centre exclusively on the interests of the child.
- 4.16 Medical reports will be the most satisfactory source of information about the health of applicants. In addition, members of primary health care teams who are familiar with the family may be well placed to help. Local arrangements should ensure that professional advice is available to enable health information to be interpreted and to advise on the extent to which the health of the applicant – or deteriorating health in the case of an established foster parent – may affect capacity to act as a foster parent.
- 4.17 Birth certificates, marriage certifications and other papers which relate to the applicant’s history, such as naturalisation documents



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should be seen routinely. Marital status will be particularly significant should adoption ever become a consideration.

- 4.18 Applicants are required to provide written consent for police records to be consulted to check for previous convictions. A record of convictions will not necessarily preclude approval but will require careful consideration and consultation with senior staff. Responsible authorities should check their own records in respect of the applicants and other members of the household. The police should also be asked to check the records of all other members of the household with their permission. Responsible authorities should note that the Rehabilitation of Offenders (Northern Ireland) Order 1979 as amended by the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 1987 apply to these checks.
- 4.19 Social work visits should include meeting the entire household and exploring the relationships of all the members, the extent to which other members of the household may participate in the care and daily life of a foster child and the demands which are made on the applicants by other members of the household such as elderly relatives requiring care.
- 4.20 As well as the suitability of the accommodation, the social worker should investigate access to schools, public transport and other amenities. In the case of children with special needs the following should be given particular attention:
- the suitability of the accommodation;
 - the availability of medical support;
 - the ability of the relevant education and library board to provide for the child's special needs.
- 4.21 The social worker should make a point of communicating with the children of the family and learning about their feelings on the introduction of a foster child into the family. The impact of fostering



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on family and social life should be discussed and considered with the applicant.

- 4.22 Where the foster parent has children who are not living in the household, the extent of contact with them should be explored. When the child is over 16 and the degree of contact and involvement in the household is significant the advice at paragraph 4.18 may be relevant.
- 4.23 The applicant should know that the views of other relevant professionals and agencies will be sought, including those of health visitors and social services agencies who have had contact with the applicant or in whose area the applicant resides.
- 4.24 Where the prospective foster parent lives in the area of another Trust, its views must be sought. Where there has been a previous application to foster or adopt, the relevant agency should be consulted.
- 4.25 The social worker should ascertain the extent to which religious views and observances influence the applicant's family life and assess their capacity to care for a child of a particular faith or religious background.
- 4.26 Similar consideration will need to be given to the applicant's racial origin, cultural background and any special experience and knowledge relevant to the care of a child of similar or different background.
- 4.27 The applicant's attitudes and expectations in relation to contact between parents and children, visits by parents and relatives to the foster parents' home and working with parents in pursuance of the aims of the placement and the plan for the child will be particularly important. The social worker should ensure that the applicant is aware of the day-to-day implications of working with parents and of the necessity of achieving a good working partnership.



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- 4.28 The standard of living and “life style” of the family will need to be assessed. What are the leisure activities and interests of the family? How does employment/unemployment affect family life? Are shifts worked? What time is available for family activities? Where the principal care giver is employed outside the home, what arrangements are available or proposed to ensure proper care for a foster child after school and during sickness and holidays? What opportunities will be available to the child to associate with other families, with children in the applicant’s circle and in the community and to take part with his peers in activities appropriate to his age and interests?
- 4.29 Views should be formed of the applicant’s attitudes and expectations in relation to child rearing, looking after someone else’s child, understanding and perception of fostering and capacity to work in partnership with a child’s family; of the applicant’s capacity to provide a foster child with protection, nurture and opportunities for development; and of the applicant’s preference and suitability as a foster parent for any particular group of children or for any particular fostering tasks.
- 4.30 A view should be formed also on the applicant’s views and expectations in relation to education including the capacity to provide educational support to a foster child and to encourage the development of special talents and interests. Consideration should also be given to the applicant’s ability to cope with the challenge of providing any necessary support to a child with special educational needs.
- 4.31 The social worker should ascertain the applicant’s views on discipline with particular regard to the issue of corporal punishment which is not regarded as an appropriate means of correcting children. The term “corporal punishment” should be taken to cover any intentional application of force as a form of punishment, including slapping, pinching, squeezing, shaking, throwing objects and rough handling. It would also include punching or pushing in the heat of the moment in response to violence from young people. It does not prevent a



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person taking necessary physical action where any other course of action would be unlikely to avert immediate danger of personal injury to the child or to another person, or to avoid immediate danger to property. Verbal abuse, derogatory remarks and pointed jokes can cause psychological harm to a child and should be avoided.

- 4.32 Applicants are required to name two referees both of whom must be interviewed. They should be persons who know the applicant sufficiently well to enable them to comment on the applicant's personality, personal and social relationships, knowledge, understanding and affection for children and motivation to foster. An additional interview with a member of the wider family may also be helpful and their attitudes towards a foster child in the family.
- 4.33 The recommended terms of approval should be clear, in relation to the particular type of fostering placement, number of children, and children of a particular age group. Further specifications could arise from the assessment or from the choice of the prospective foster parent. Approval may be restricted to a specific named child or children. Subject to the requirements of legislation and guidance on disclosure of records, the content of the report should normally be shared with the prospective foster parent while avoiding disclosure of information supplied in confidence by referees or other agencies or professionals.

Assessment of relatives and family friends as foster parents

- 4.34 The possibility of a child being cared for within the extended family should be investigated and considered as an alternative to the provision of accommodation by the responsible authority. Even when it is necessary for the responsible authority to arrange provision of accommodation, placement with a relative will often provide the best opportunities for promoting and maintaining family links in a familiar setting.
- 4.35 The Foster Placement (Children) Regulations apply to the placement of a child by a responsible authority with a relative or friend and make



provisions for allowing a child to remain with a relative or friend with whom the child is living when the need for accommodation arises. Assessment of relatives as foster parents must include consideration of the extent to which the placement will affect the child's other family relationships, including contact with either or both parents. Where such contact has been terminated or restricted, the Trust will need to consider with the prospective foster parents any particular difficulties it may encounter in maintaining any conditions or restrictions on contact. Similarly, relatives may feel their loyalty strained where they are given confidential information not available to other family members, just as they may be reluctant to disclose to the responsible authority information they already possess. The responsible authority should be ready to provide appropriate support where difficulties arise. All these considerations are especially critical where a child has experienced abuse, including sexual abuse. In such cases, the case conference could make important contributions toward reaching a decision.

Placements previously governed by the Children and Young Persons (Boarding-Out) Regulations (Northern Ireland) 1976

- 4.36 Existing placements of a child under the Children and Young Persons (Boarding-Out) Regulations (Northern Ireland) 1976 will continue to be governed by the requirements of those regulations (as if those regulations were still in force) for twelve months from the day on which Part IV of the Children Order comes into force (paragraph 16 of Schedule 8 to the Order). Thereafter, such placements will come within the scope of the Foster Placement (Children) Regulations. During the twelve month transitional period, the child will be treated as having been placed with a Trust foster parent. But during that time, the Trust must make arrangements to review the approval of a Trust foster parent under the Foster Placement (Children) Regulations, if it is planned that the child is to remain with that person after the end of the twelve month transitional period.



Approval

- 4.37 A foster parent may be approved to provide foster care for a particular named child or children or number and age range of children or of placements of any particular kind or in any particular circumstances (regulation 3(5) of the Foster Placement (Children) Regulations).
- 4.38 Responsible authorities should make known to prospective foster parents the arrangements for reaching decisions about approval. The arrangements must reflect the importance of the decision and the need for accountability within the responsible authority. The composition of an approving panel should reflect an appropriate range of expertise, including is possible, an experienced foster parent from another agency.
- 4.39 The role of a panel could be extended to include consideration, advice and recommendations in relation to decisions other than approval of foster parents, such as matching and placement, consideration of possible applications by foster parents for residence orders and decisions in connection with reviews of foster parents. A range of decision-making procedures for different circumstances may be necessary with guidelines to ensure professional accountability and managerial responsibility as well as the maintenance of standards. For example, fostering with a view to adoption is a confusing and inaccurate concept which can blur the need for distinct decisions. Similarly, it should be understood that approval as adopters does not imply approval as foster parents.
- 4.40 Responsible authorities are required by regulation 3 of the Foster Placement (Children) Regulations to give notice in writing of the decision on approval. The decision should also be communicated personally by a social worker. The notice of approval should clearly state the terms of approval in accordance with regulation 3(6)(a). As far as possible, the reasons for refusal should be explained. It is important that a full record of the decision-making process is kept rather than a record of the decision only. A representations



procedure should be available for reconsideration of the decision and to deal with an applicant's dissatisfaction with the approval process.

- 4.41 The outcome should also be notified to any professionals who have contributed to the assessment, such as health visitors or GPs.

Review and termination of approval

- 4.42 Responsible authorities are required by regulation 4 of the Foster Placement (Children) Regulations to review the approval of foster parents at least once a year. Changes of circumstances such as change of address, death of spouse or remarriage or change in health will normally call for an early review. The review procedure must be set out in the foster care agreement.
- 4.43 Reviews should focus on the foster parent rather than the current placement and should, if possible, be carried out by a social worker with responsibility to the fostering service who may not be the social worker of a change in placement. Consultation would then of course be necessary to establish how the placement is working and what the child and his parents' views on this are. A review should include a visit to the foster home, discussion with the foster parent and the child, and generally meeting other members of the household. It should be an opportunity for the airing and discussion of a foster parents view of the service offered by the responsible authority and of the foster parent's own experience and any difficulties arising. The terms of approval should be included in the review. Non-use, over use or under use of a foster home are also factors to investigate on review as the process should contribute to an understanding of the strengths and weaknesses of the fostering services as a whole.
- 4.44 The extent to which reviews should include a comprehensive re-assessment of a foster parent will depend on individual circumstances. A responsible authority may decide that a full re-assessment will be needed where it is agreed that a foster parent should seek approval for a different kind of placement, perhaps to care for sexually abused children or to participate in a special scheme.



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- 4.45 Review of approval may be needed on investigation of allegations against the foster parent made by a child or parent or other person. Procedures must first and foremost protect the child's welfare, but should also take account of the sensitivities and rights of the other parties including the foster parents. Where it is decided to leave the child in the placement during the investigation, arrangements should take account of the need for additional support and supervision.
- 4.46 In any review under regulation 4 the responsible authority must seek and take into account the views of the foster parent. Foster parents should be offered the opportunity of giving their views in writing in advance of the review, although some may prefer their views to be recorded during the discussion. Any other responsible authority which has a child in placement in the foster home or which has used the foster home within the last year must be invited to give its views which must be taken into account. It is important that all responsible authorities using the services of a single foster home should contribute to the review as reviews can be an important means of maintaining a good understanding between all parties and identifying and resolving any difficulties that may arise.
- 4.47 The review and the decision taken should be recorded. Regulation 4 provides for the foster parent to be notified in writing of the outcome including any change in the terms of approval. Where a decision has been taken to terminate approval, the decision and the reasons should be generally discussed with the foster parent before the statutory notice is issued.
- 4.48 Approval must be formally terminated by the approving responsible authority when it is decided that the foster parent is no longer suitable. It is not sufficient to avoid placing further children. Notice of termination should also be given where a foster parent decides to give up fostering unless the foster parent intends to resume after a short break. Responsible authorities should also issue a notice of termination where, although no formal notice of resignation has been received, it is clear that a foster parent does not intend to continue or resume fostering. This is important because as long as foster



parents remain formally approved, their services are available to other responsible authorities.

- 4.49 Copies of notices of re-approval and termination must be sent to any other responsible authority using the foster home and taking part in the review. As a matter of good practice, the outcome of the review should normally be discussed with the other responsible authorities before a final decision is reached. If the outcome of a review means that a child is to be moved from the foster home, plans for the termination of the placement will have to be agreed between the responsible authority and the foster parent. This will not apply if the child has to be removed at once to safeguard and protect his welfare. Plans will need to be made in consultation with the child, parents and other individuals significantly involved.

The foster care agreement

- 4.50 Regulation 3(6) of the Foster Placement (Children) Regulations requires the approving authority to enter into a written agreement with a foster parent at the time of approval. The purpose of the agreement is to provide written information about the terms and conditions of the partnership between the responsible authority and the foster parent. It also provides foster parents with written confirmation of matters which were discussed and agreed during assessment.
- 4.51 The matters and obligations to be covered in the foster care agreement are set out in Schedule 2 to the regulations. These are minimum requirements. Responsible authorities should not restrict themselves to these matters but should ensure that foster parents have a full understanding of what is expected on behalf of both foster parent and the responsible authority when a child is placed, in relation to the requirements of regulations and the responsible authority's policies. The responsible authority and the foster parent will also enter into a specific agreement when an individual child is placed (see Chapter 5).



Training and support of foster parents

- 4.52 The assessment process should enable foster parents to gain a basic understanding of fostering and its requirements. Following approval, the social worker and foster parent should agree on the preparation and training needed, both before a child is placed and in the longer term. Opportunities for training and support should be provided at three levels:
- support, discussion and evaluation in the home;
 - participation in foster parent groups;
 - participation in formal training events with other foster parents and social workers.
- 4.53 Social workers need access to appropriate training resources to meet the needs of foster parents. The help of health professionals should be sought in local training schemes. Reading material should also be available to foster parents for whom training should be central and ongoing. Some themes should be common to all preparation and training programmes, such as working with parents.
- 4.54 Initial training and preparation should alert foster parents to the possibility without undue stress of the likelihood that hitherto undisclosed abuse of a child, including sexual abuse, may come to light during placement. Foster parents need to know how they should respond and the steps they should take. Similarly, all foster parents need to be aware that some children may have an undetected health condition and the implications this may have for family life and the child's care. There should be a clear understanding of the support which the responsible authority has to provide if circumstances of this kind arise.



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- 4.55 Specialised preparation and training are needed for foster parents undertaking some tasks or participating in some schemes, for example, the care of sexually abused children, or juvenile offenders. Opportunities for continuing training should be available for all foster parents. Professionals from other services and agencies can be asked to contribute to training. Health professionals may be willing to speak on such matters as helping adolescents with developing sexuality or the health care needs of children from minority groups.
- 4.56 Foster parents need support and help with difficulties that arise from the special demands of the fostering role, in addition to help that may be needed in connection with the care of a particular child. Fostering makes demands on the whole family and can be the cause of stress in family relationships. Responsible authorities should ensure that appropriate support, advice and assistance are provided to the foster parent and foster family.
- 4.57 The role of the child's social worker includes support, advice and assistance to the foster parent, in relation to that child. It is desirable, however, for foster parents to be allocated their "own" social worker to whom they may turn for general advice and support. The support available from a specialist worker may be supplemented by links with an experienced foster parent.
- 4.58 The social worker should see that foster parents have access to support which is available from other sources. Within the fostering service, experienced foster parents or foster family groups can be an important training resource and a source of support, especially to less experienced foster parents. Foster parents should also have access to the support of professionals in other services which is available to all parents in the community.

Complaints and representation

- 4.59 Under the Children Order there is no statutory provision for foster parents to have access to a procedure to make representations or a complaint on their own behalf except in connection with decisions about the usual fostering limit (Schedule 5 to the Order refers). It is



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essential, however, that foster parents should be able to make representations about disputes and discuss facts connected with other aspects of their service as foster parents, including disputes about the care of a child, dissatisfaction with the services or support provided by the responsible authority and requests for review of decisions such as refusal of approval, termination of approval or termination of a placement. Responsible authorities may therefore wish to extend their statutory complaints procedures to include complaints made by foster parents on their own behalf.



CHAPTER 5: FOSTER PLACEMENT

Choice of placement

- 5.1 The general duty set out in Article 26(1) applies to all decisions by a Trust (Article 76(1) in the case of voluntary organisations) in relation to the foster care of a child. This is reinforced by regulation 5 of the Foster Placement (Children) Regulations which requires responsible authorities to be satisfied that placement with foster parents is the best way of meeting their welfare duty towards a child in their care and that the specific placement is the most suitable having regard to all the circumstances. In choosing the most suitable placement, responsible authorities can face a difficult task in meeting the assessed needs of the child. Regular reviews of recruitment and training needs and forward planning to meet identified needs should mean that the type of foster home needed will be more likely to be available.
- 5.2 The making of arrangements in advance as required by regulation 3 of the Arrangements for Placement of Children (General) Regulations will allow opportunity for the child's needs to be carefully assessed and a plan developed before placement. Contingency planning for a possible placement while efforts continue to keep a child at home may mean a more successful and less disturbing transition to a foster placement if the child must be accommodated. Even where time is short, a partial plan, which can be reviewed and developed, is required by the Arrangements for Placement of Children (General) Regulations and is essential to a successful placement.
- 5.3 Some of the considerations which influence assessment of a child's needs and choice of placement are outlined in the statutory requirements discussed in Chapters 1 and 2. Article 27(8) requires that accommodation provided for a child who is being looked after shall, so far as is reasonably practicable and consistent with his welfare, be near the child's home and, subject to the same premise, that siblings are accommodated together. Accommodation provided for a child with a disability should, so far as is reasonably



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practicable, be suitable to his needs. Regulation 5 of the Foster Placement (Children) Regulations also requires responsible authorities to satisfy themselves that the child's needs arising from his racial origin and cultural and linguistic background will, so far as practicable, be met and to place a child, where possible, with a foster parent of the same religious persuasion as the child or with a foster parent who will undertake to bring the child up in that religious persuasion.

- 5.4 A child's need for continuity in life and care should be a constant factor in choice of placement. In most cases, this suggests a need for placement with a family of the same religion, race and culture in a neighbourhood within reach of family, school or day nursery, church, friends and leisure activities. Continuity also requires placement in a foster home which a child will find familiar and sympathetic and not remote from his own experience in social background, attitudes and expectations; a foster home in which he is most likely to be able to settle down and as far as possible feel "at home" and free from anxieties.
- 5.5 Responsible authorities are required, in making any decisions, to have regard to the wishes and feelings of the child subject to the child's understanding and this applies to all decisions in relation to foster care. This will involve:
- appropriate communication and consultation with the child;
 - consistently providing children with information, support and re-assurance;
 - enabling children to express their views and feelings and accounting for these where at all possible;
 - setting up preparation groups for children where appropriate.



Numbers of children in foster homes

- 5.6 An important factor to be taken into account in placement decisions, and in discussions about the best use of foster homes, is the number of children who may be placed in a foster home. Paragraphs 2 and 3 of Schedule 5 to the Children Order prescribe a “usual fostering limit” of three children. The limit does not apply if the children are siblings. This does not mean that placement of three in a foster home should be taken as a norm. In many cases the welfare of a child needing placement will be best served by his being the only foster child in the family.

Where more than one child is to be placed, the interests of each child must be carefully considered in addition to the needs of the foster parents' own children.

- 5.7 Trusts have powers to grant exemption from the usual fostering limit. The factors to be taken into account in considering whether to grant exemption are set out in paragraph 4 of Schedule 5 to the Children Order.
- 5.8 Where exemption is granted, written notice must include the names of the children who may be fostered and any considerations which the Trust decides to attach to the exemption. Trusts have powers to vary or cancel conditions attaching to the exemption.
- 5.9 Where a foster parent is exceeding, or wishes to exceed, the usual fostering limit and the Trust concludes that exemption should not be given, the foster parent will be treated as running a children's home, and the Children's Homes Regulations will apply. There may be cases in which Trusts are called on to decide whether an establishment is a foster home or a children's home. This can only be judged on all the facts and circumstances of the case. Small scale, domestic setting, a family atmosphere and an excellent standard of care do not necessarily mean that an establishment is not a children's home; these characteristics are, in fact, desirable in all children's homes. A few useful pointers which suggest that the



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reception of children is on a different basis from the extension of the family circle which is the hallmark of foster care, and that an establishment would be more appropriately treated as a children's home are:

- a fixed number of "places" are offered;
- all places must ideally be filled, to achieve viability;
- investments have been made in the fabric of the premises to accommodate a larger number of children;
- a voluntary organisation has arranged for a couple to run an establishment with a view to providing care for a fixed number of children.

5.10 Clearly, however, decisions should be based on an individual assessment of each case. The important aim is that the most appropriate safeguards and support should be applied.

The foster placement agreement

5.11 Regulation 5 of the Foster Placement (Children) Regulations requires a responsible authority to enter into a written placement agreement with the foster parent. The matters to be covered in the foster placement agreement are set out in Schedule 3 to the regulations. While foster care agreement (regulation 3(6)(a)) covers general matters relating to the foster parent and to all placements, the foster placement agreement (regulation 5(6)) sets out the agreed arrangements for the care of the individual child placed. It also serves as a confirmation of what is expected from the foster parent and the responsible authority and what has been agreed with the parent. Different requirements apply when a child is placed in an emergency or in an immediate placement (see paragraphs 5.23 to 5.25).



Information to foster parents

- 5.12 The foster placement agreement must include a statement of the information which the responsible authority considers necessary to enable the foster parent to care for the child. This includes the responsible authority's plans for the child and the objective of the placement; the role of the child's parents and the arrangements to enable them to continue their role in the child's life; the child's personal history, religious persuasion, cultural and linguistic background and racial origin; the child's state of health and need for health care and surveillance and the child's educational needs. The statement must be provided at the time of the signing of the agreement or, where this is not possible (because the information is not available for instance), within the following 14 days.
- 5.13 This requirement acknowledges the need for communication of essential information if there is to be an effective partnership between parents, responsible authorities and foster parents. Foster parents need to have a full understanding of the background and history of children on whose behalf they are undertaking an exacting and responsible role and who will need their help in coping with living away from home. The foster parent will need to know the circumstances leading to the child being looked after or the child's admission to care and the child's previous experiences. The social worker should discuss with the parents and any other previous carers, and with the child according to his understanding, the information which is to be given to a foster parent and why. Where there is a special reason for withholding significant information, the reason should be recorded on the child's case record.
- 5.14 There is no requirement under regulation 11 of the Foster Placement (Children) Regulations for written information to be issued when a child is placed under the emergency or immediate placement provisions. Responsible authorities should, however, ensure that the foster parent in these circumstances has sufficient information to care for and help the child.



- 5.15 Foster parents are required to undertake to treat as confidential any information about a child or his family given in confidence in connection with a foster placement. Foster parents' training should include advice on the maintenance of confidentiality and dealing with questions from family and friends. Advice should also be given on the safekeeping of documentation connected with the child and the placement, which should be returned to the responsible authority when the placement ends.

Preparation and introduction

- 5.16 There are examples of intensive approaches to preparation, more usually associated with specialist schemes or with long-term placements, where foster parents are closely involved in preparation, pre-planning meetings and sharing of information. While they may not always be practicable, the principles of such approaches can be applied with benefit to all placements. The aim of the placement and what is expected in relation to the placement on the part of the parents, responsible authority and foster parent must be understood by all parties.
- 5.17 The introduction of the child to the foster placement is an important part of the preparation. Wherever possible the social worker should bring a parent or previous carer to share in the introduction. Parents have an important part in preparation and introduction. They can provide information about the child's day-to-day routines, capabilities, habits, fears, likes and dislikes. This information is essential if the foster parent is to provide continuity of care for the child and help the child to settle in. The expected role of the parent in the day-to-day care for the child (such as who will be in contact with the school) should be clarified in the preparation for placement.
- 5.18 The financial arrangements for the placement should be settled. In addition to maintenance payments, the responsible authority should consider with the foster parent whether there are any particular needs arising from the placement: bedding, bedroom furniture, equipment clothes. A good deal of equipment may be needed where



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a group of siblings is placed in a household not equipped to cater for larger numbers. Children with special needs frequently involve extra expense. Responsible authorities should be realistic and sensitive in responding fully and promptly to a need for extra expenditure, always bearing in mind that the responsibility for providing for the child lies with the responsible authority and his parents, not the foster parent.

Supervision of placement

5.19 Regulation 6 of the Foster Placement (Children) Regulations provides a framework of requirements, including visits, for the social worker's task of supervising the placement and working with the child and foster parent towards the objective of the placement and the achievement of the plan for the child. These visits are separate to any visit for the purpose of reviewing approval of the foster parent. The requirements for supervision are:

- visits: the child must be seen at each visit. (Where a visit is made to discuss the foster parent's need for support or at the foster parent's request it may not be appropriate to see the child at that time. Such visits when the child is not seen fall outside the pattern of visits required in regulation 6);
- advice and assistance to the foster parent; and
- reviews of the plan for the child (under the Review of Children's Cases Regulations – see Chapter 3).

5.20 Minimum visiting requirements are one visit within the first week of placement. Thereafter visits should occur at least once every month. The exact frequency of visits should however be determined by the circumstances of the case and the responsible authority must arrange a visit whenever reasonably requested by a child or foster parent. Visits during the first weeks of placement can be especially important to check that arrangements made at the time of placement are working smoothly, or to give any help needed during the settling-in period. The regulations provide for the child to be seen alone if



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considered appropriate and the plan for the child and the placement agreement should identify where this is a consideration from the outset. After each visit, the responsible authority is required to ensure that the social worker who made the visit produces a written report (regulation 6(4)). The report should indicate that the child was seen and, if not why not, and if the child was seen alone. It should also comment on the child's welfare and the success of the placement including any comments made by the child or carer. Any matter for concern or difficulties should be highlighted so that the need for any necessary action can be discussed with the social worker's supervisor.

5.21 Visiting the child in the foster home has a number of purposes.

These include:

- (a) child protection; the social worker should talk to the child, to safeguard and reassure a child who may feel isolated and vulnerable and who is away from family and friends. The standard of care should be observed and the child's bedroom sometimes seen. Some visits may be unannounced, in order to provide a balanced perspective of the quality of life in the foster home. Visits should occasionally take place when all the members of the household are at home. The child should sometimes be seen alone, perhaps outside the foster home. This reinforces the child protection element and helps child and social worker to get to know each other and build up a relationship of trust. Both child and foster parent should feel free to get in touch with the social worker at any time;
- (b) an opportunity to evaluate and monitor the achievement of goals with the child and foster parent, to contribute to the review of the plan and generally to identify where help is needed;
- (c) establishing the basis of a supportive relationship with the child and foster parent.



- 5.22 Visits should not be neglected because a placement is going well. Ongoing review of the plan for the child requires that visits take place at least at the frequency required by the regulations. Visits should, however, take place with sufficient regularity and depth of inquiry to ensure that the social worker has up-to-date knowledge of issues and changing needs within the placement and is responding effectively to these. There are some circumstances where visits in excess of the minimum frequency will be especially necessary.

Emergency and immediate placements

- 5.23 The powers in regulation 11 of the Foster Placement (Children) Regulations are not available to voluntary organisations. In an emergency, regulation 11 allows a child to be placed with a person who is an approved foster parent. Such a placement with an approved foster parent (regulation 11(1) and (2)) may be arranged for a period not exceeding 24 hours, even though the requirements of regulation 5(6) (placement agreement) have not been satisfied. Before such a placement is made, the Trust should satisfy the provisions of regulation 5(1)(a) (welfare of the child) and obtain a written agreement covering the details in regulation 11(4).
- 5.24 Regulation 11(3) allows immediate placement with a relative or friend who has not been approved as a foster parent. The regulation requires that the relative or friend should be interviewed, the home inspected and information obtained about the other members of the household. As for emergency placements with approved foster parents, the Trust should be satisfied that the placement is in the child's best interests and should make a written agreement covering the details in regulation 11(4). The Trust should, in practice, make the fullest inquiries possible in the circumstances, including where possible, checks with the police to satisfy itself that nothing is known which suggests that the relative or friend is not a suitable person to be entrusted with the child. Where possible, the parents' views or those of other relatives should be sought.
- 5.25 These powers are intended to be used exceptionally in unforeseen circumstances and not for an admission to care for which



contingency plans could have been made. Where such planning has not been possible the powers may be used with benefit where it would clearly be advantageous to a child to be placed with or to remain in the care of a familiar figure in reassuring surroundings. Trusts should guard against inappropriate use of the powers and it is recommended that local procedures should provide for authorization at a senior level. An immediate placement may last no longer than six weeks and the child must be visited at least weekly. The placement may only continue beyond six weeks if during that period the relative or friend is approved as a foster parent.

Short-term placements

- 5.26 Regulation 9 of the Foster Placement (Children) Regulations allows for a series of pre-planned short-term foster placements of a particular child with the same foster parents to be treated as a single placement for the purpose of applying these regulations. The length and timing of the individual placements within the arrangement need not be specified in advance but no single placement may exceed four weeks and all the placements must occur within a period which does not exceed one year. The total duration of time in the placement during the arrangement is not to exceed 90 days. The responsible authority is required to visit a child in such a placement as circumstances require and when reasonably requested by the child or foster parent.
- 5.27 The sort of short-term placements which may come under regulation 9 are schemes variously known as “respite care”, “phased care” and “family link” schemes. Under such schemes a responsible authority makes arrangements for a child who normally lives with his family to spend short periods of time with an approved foster parent. Schemes are usually for the benefit of children with a disability and their families, to provide the parents with a break and the child with the stimulus of a change of scene. Schemes may also be used for other children in need to take the “heat off” at intervals and prevent family breakdown. Some children placed in short-term respite schemes may normally live in long-term foster placements.



- 5.28 Once the arrangements are in place, the carers and the parents may be able to operate them with minimal involvement from a social worker, ie the child may be taken to and from the foster home by the parents for the number of weekends or weeks specified in the arrangement. Sometimes an arrangement may provide specifically for, say, one weekend per month or two months; or an arrangement may provide for a certain number of weekends or weeks, the timing to be agreed between foster parent and parents according to circumstance. In some cases a “package” of service is agreed, including a specified amount of child minding and baby sitting. The Arrangements for Placement of Children (General) Regulations and the Review of Children’s Cases Regulations also make similar provision for a series of short-term placements to count as single placements.

Placements outside Northern Ireland

A Trust may arrange (or assist in arranging) for a child for whom it is providing accommodation by voluntary agreement to live outside Northern Ireland with the approval of every person who has parental responsibility for the child (Article 33(2)). In the case of a child who is in care, the court’s approval must be sought (Article 33(1)). This may only be given in certain circumstances, namely where: every person with parental responsibility for the child consents or his consent is dispensed with under Article 33(5); the child himself consents (if he has sufficient understanding); and suitable arrangements have been made for the reception and welfare of the child in the new country and living there would be in the child’s best interest (Article 33(3) and (4)). Where the child is moving to another jurisdiction, the effect of the care order may be transferred to the relevant public authority in the receiving jurisdiction under regulations (see paragraph 2.75).

- 5.30 Voluntary organisations are prohibited by regulation 10 of the Foster Placement (Children) Regulations from placing a child outside the British Islands. “British Islands” are defined in the Interpretation Act (Northern Ireland) 1954 (c.33) as meaning the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland. Both



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voluntary organisations and Trusts may place a child outside Northern Ireland and regulation 10 therefore requires responsible authorities to take steps to ensure that equivalent requirements are met where placements are made outside Northern Ireland.

- 5.31 Circumstances in which the question of a placement outside Northern Ireland may arise include those in which:
- (a) it would be in the interests of a child to be placed with a relative or other person elsewhere in the British Islands;
 - (b) a foster parent moves to a new address elsewhere in the British Islands and there are reasons in favour of continuing the placement; and
 - (c) a foster parent is required to go overseas for a tour of duty or service posting and there are reasons in favour of continuing the placement.
- 5.32 Where it is clearly in a child's interests and consistent with the plan for the child to be placed elsewhere in the British Islands and the foster parent is approved under the regulations, appropriate arrangements for supervision should be made with the relevant authorities.
- 5.33 Where a foster parent plans to move permanently or temporarily elsewhere in the British Islands, similar considerations apply as to any proposed move by a foster parent beyond the locality. The responsible authority will need to weigh the advantages and disadvantages of continuing the placement, bearing in mind the views of the parents, the plans for the child, the objectives of the placement and implications for contact. The child's wishes will be a critical factor; the consent of the parents (or those with parental responsibility) is essential where the child is not in care. Whether or not the child is in care, parents should be involved in the decision-making process.



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- 5.34 Other factors arise when the proposed move is overseas, including the increased difficulty of continuing any contact arrangements and the difficulty of supervising and reviewing the placement. If the foster parent is in the armed services, it should be possible to make arrangements with the Soldiers, Sailors and Airmen's Families Association (SSAFA). Where the responsible authority believes that supervision is not required, consideration can be given to the possibility of an application by the foster parents for a residence order. This will have the advantage of bringing before the court any conflict between the child's interests and wishes and the parent's wishes.
- 5.35 A decision to allow a foster parent to take a child overseas (except for a holiday) should not be made except where there are exceptional circumstances and adequate and realistic arrangements can be made to safeguard the child's welfare and meet the requirements of the regulations. It should be agreed only where the stay overseas is for a definite and limited period.

The end of the placement

- 5.36 A placement may come to an end in a variety of ways. Planned endings occur where the objective of the placement has been achieved or partly achieved, or it has been decided that the objective cannot be achieved and the plan has been reviewed. Placement may end in:
- a move to another placement;
 - return to the child's family;
 - return to the family, but continuing support and service are needed and the child is expected to return for further periods of respite care; and
 - leaving the placement for independent living.



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- 5.37 It should be noted that a number of children in fostering placements may remain in the foster home following their 18th birthday.
- 5.38 The aim should be to achieve a planned ending to a placement with careful preparation and transition, whether to the child's family, another placement or adoptive placement. Foster parents have an important role to play in preparing and reassuring the child, assisting gradual introductions by taking the child on visits to the new carers and receiving visits from them, and by helping the new carers to understand the child's habits, routines and needs.
- 5.39 A child's return to his family may need equally careful preparation, and child and family may need support over the settling-in period until the child is re-integrated into the family. Other services under the Children Order may be appropriate (see **Volume 2: Family Support, Child Minding and Day Care**). A period of gradual re-introduction may be needed, depending on the length of time the child has been away from home and the extent of changes in the family. The need for continuity is equally critical at the end of a placement as at the beginning. Children often return to different addresses, new babies in the family, new step parents and step brothers and sisters. Sometimes a child must change schools and leave behind friends and interests acquired during foster placement. Parents, too, need to be prepared for changes in the child's habits, interests and routines and for the possibility of disturbed behaviour while the child is settling in.
- 5.40 It is sometime appropriate for contact between former foster parents and child to continue for a long time through visits, telephone calls or letters. In most cases it is helpful to foster parents to be given news of how the child has settled into his new life. Feedback of this kind can contribute to their development in the fostering role.
- 5.41 Unplanned endings may happen where a crises leads the responsible authority to remove the child immediately or the foster parent asks for the child to be removed or the child insists on leaving. Where a child is accommodated by agreement with a parent under



voluntary arrangements, a parent may remove the child without notice. Foster parents will need advice on handling those cases in which it may be necessary to seek an emergency order to prevent totally inappropriate and unplanned removals where this would be likely to cause significant harm to a child.

- 5.42 Responsible authorities have a duty under regulation 7 of the Foster Placement (Children) Regulations not to allow a child to remain in a foster home if they consider that it would not be in his interests to stay there. Where necessary (where a child is at risk of harm, for example) the child should be removed immediately. Trusts have power under regulation 7 to remove in these circumstances any child who is placed with foster parents in their area by another Trust or a voluntary organisations, whether or not the area Trust has agreed to supervise the placement.
- 5.43 While responsible authorities should clearly not hesitate to use these powers when they are needed to safeguard a child, the aim should be to bring placements to a planned conclusion, discussing the plans with the child and foster parents and parents and involving them in the preparation of the child. There may be circumstances where the responsible authority has decided that the placement must be brought to an end but removal may be delayed without disadvantage to the child. Responsible authorities should as far as possible avoid removals which appear hasty and arbitrary.
- 5.44 Children need help in coping with disrupted placements. Disrupted placements should also be considered with the foster parents in a positive and forward looking way with the aim of understanding and learning (on the part of the responsible authority as well as the foster parents) for the benefit of the child and of future placements.

Inter-agency working

- 5.45 Regulation 8 of the Foster Placement (Children) Regulations sets out the circumstances in which a Trust may make arrangements with a voluntary organisation for a child, for whom the Trust is responsible,



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to be placed by the voluntary organisation. During such an arrangement a voluntary organisation undertakes all the duties on behalf of the Trust under the regulations in respect of the placement. The Trust must be satisfied as to the capacity of the voluntary organisation to discharge these duties and that such an arrangement is the most suitable way of discharging the duties. The Trust and the voluntary organisation must enter into a written agreement about the arrangements, which must include provision for consultation and for exchange of information and reports. The Trust continues to carry primary responsibility for the child's care and welfare and for decisions affecting the child's welfare. In this connection the Trust may find the SSI paper "Quality Living Standards For Services: Children Living in a Family Placement" (June 1996) helpful in ensuring consistent application of standards.

- 5.46 There should similarly be a clear agreement, covering exchange of information, reports, consultation and decision-making, where one Trust arranges for another Trust to supervise a placement made in that other Trust's area by the first Trust.
- 5.47 There is no specific provision for a Trust to arrange for a placement to be made by a private or "independent" fostering agency or for a Trust's duties under the regulations to be discharged by such an agency. However, where it chooses to use a private fostering agency, the Trust remains responsible for ensuring that there is compliance with all aspects of the regulations.
- 5.48 Particular care is needed where a child is placed outside the area of the Trust. This applies whether arrangements are made with another Trust, or with a voluntary organisation, or whether the placing Trust decides to undertake the supervisory duties. Placements at a distance should only be made on the understanding that supervision and support can be provided to the level required by the plan and the child's welfare, including preparation for independent living and aftercare will not be jeopardised.



Records

- 5.49 The Arrangements for Placement of Children (General) Regulations require the maintenance of children's case records and a register of all children placed in a Trust area. The guidance in Chapter 2 advises on the keeping of these records, the general principles of good record keeping and access to records.
- 5.50 Regulation 12 of the Foster Placement (Children) Regulations requires each Trust to keep a register of all foster parents in its area who are currently approved and any person not being an approved foster parent with whom a child is placed in its area pursuant to regulation 11, whether by it or another Trust. The register should serve as an index to the Trust's own fostering resources, and enable the Trust to respond to enquiries from other Trusts who are considering approval of foster parents or placement with foster parents in the area.
- 5.51 Regulation 13 of the Foster Placement (Children) Regulations requires responsible authorities to keep a case record for each foster parent whom they have approved. In addition, a Trust is required to keep a case record for each person who is not an approved foster parent but with whom a child is placed by it pursuant to regulation 11. A record should also be kept by responsible authorities for each prospective foster parent who after assessment, has been issued with notice that he cannot be approved. Responsible authorities should continue to use their discretion in retaining information on applications which do not reach the stage of approval or otherwise, in the event of future application or inquiry from another agency.
- 5.52 The documents and information to be retained in the case record are set out in regulation 13. These include copies of foster care agreements but not copies of individual foster placement agreements. The general principle is that keeping personal details of the child and family on the foster parent's case record and personal details of the foster parent on the child's case record should be avoided.



Safekeeping and retention of records

- 5.53 Regulation 14 of the Foster Placement (Children) Regulations provides for foster parents' case records to be kept for at least ten years from the date approval is terminated, or until death of the foster parent if earlier. This should be regarded as a minimum rather than an inflexible rule. Retention for a longer period can be desirable in some cases, for example, where there is a possibility that the foster parents may seek to foster children again and there is information which should be known in the event of a further application.

Placements by voluntary organisations

- 5.54 Most placements made under the regulations by voluntary organisations are made by arrangement with Trusts. Voluntary organisations can, however, place children under the regulations by direct arrangements with parents or with a child who is 16 or over. Article 77 and regulations 15 and 16 of the Foster Placement (Children) Regulations set out the duties of Trusts in respect of such placements. Article 77 requires a Trust to satisfy itself that any voluntary organisation providing accommodation for a child is satisfactorily safeguarding and promoting the welfare of the child.
- 5.55 The requirement in respect of individual children placed by arrangement with a Trust is largely met, through observance of regulation 8 of the Foster Placement (Children) Regulations, by the Trust which makes the arrangement with the voluntary organisation. This does not, however, absolve a Trust from the need to know of the activities of any voluntary organisation placing children in its area under the regulations, even if the organisation is placing children only by arrangement with another Trust. If a Trust is doubtful about the capacity of a voluntary organisation to satisfactorily safeguard and promote the welfare of the children it has placed, that Trust should inform the responsible authority. In order to satisfy itself in respect of the welfare of individual children, a Trust must be sure that the voluntary organisation has the capacity, the resources and the arrangements in place to carry out effectively all its responsibilities in



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connection with the placement of a child. Its responsibilities are set out in the Children Order and in the Arrangements for Placement of Children (General) Regulations, the Review of Children's Cases Regulations, the Representations Procedure (Children) Regulations, the Foster Placement (Children) Regulations and accompanying guidance. A Trust will need to judge the nature and extent of the general inquiries and investigations needed in order to assure itself that the child's welfare is being safeguarded.

Trust visits

5.56 Visits to individual children and observation of the standard of care will provide important opportunities to determine whether a child's welfare is being satisfactorily safeguarded and promoted. Regulation 15 of the Foster Placement (Children) Regulations sets out minimum requirements for visits to children placed by a voluntary organisation excluding children who are placed by an arrangement with a Trust. The children to whom this regulation applies will therefore be children placed by direct agreement with a parent or child. Visits are to be made:

- within 28 days of placement;
- within 14 days of any representations from the voluntary organisation, foster parent or child of circumstances requiring a visit;
- within 7 days of receiving any information that a child's welfare may not be satisfactorily safeguarded and promoted; and
- at intervals of not more than six months, provided the Trust is satisfied following a visit as to the welfare of the child.

These intervals are the minimum permissible intervals. Where a Trust has reason to believe that circumstances require an immediate visit, there should be no delay.



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- 5.57 Visits to a child placed by a voluntary organisation by arrangement with another Trust are required from time to time under Article 77(2). Consultation between Trusts on the frequency and circumstances of visits is recommended.

Welfare of the child

- 5.58 A Trust which is not satisfied that the welfare of a child placed by a voluntary organisation is being satisfactorily safeguarded or promoted is required by Article 77(4) to take such steps as are reasonably practicable to secure that the child's care and accommodation is taken over by a parent or relative or a person who has parental responsibility. A Trust must also consider the extent to which (if at all) it should exercise any of its functions with respect to the child.



CHAPTER 6: DISQUALIFICATION FOR CARING FOR CHILDREN

- 6.1 This chapter accompanies the Disqualification for Caring for Children Regulations (reproduced at Annex 1). Trusts will wish to note that the regulations are relevant to their duties and powers to register children's homes (Part IX of the Children Order), to advise on and supervise the arrangements for private fostering (Part X of the Order), and to register providers of day care and child minders who are for children aged under twelve (Part XI of the Order).

Disqualification – the circumstances

- 6.2 The regulations apply equally to persons undertaking private fostering, to persons carrying on, or being concerned in the management of, or having a financial interest in, or being employed in a privately run or voluntary children's home and to persons providing day care and or working as child minders. This means that a person who is disqualified from one of the above activities is also disqualified from the others.

Grounds for disqualification

- 6.3 The regulations set out the details. These are the main categories:
- (a) where a child of the individual has at any time been the subject of a care order, or where an order has been made with the purpose of removing a child from the individual's care or preventing the child from living with him;
 - (b) where the person has been convicted of one of the offences listed in the Schedule to the regulations;
 - (c) where:
 - the person has been concerned with a voluntary or privately run children's home which has been removed from the register; or



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- an application by the person for registration of a voluntary or privately run children's home has been refused; or
- the person has been prohibited from being a private foster parent or the person has been refused registration to be a child minder or provider of day care or had his registration cancelled; or
- the person has been listed in the DHSS Pre-Employment Consultancy Service (PECS) Register.

Power to life disqualification

- 6.4 The Children Order requires persons applying to run a private or voluntary children's home, to work as a private foster parent, or day care provider or child minder to tell the Trust about any disqualification. The Trust has discretion to lift the disqualification and thus allow the person to carry out one or other of the above activities.
- 6.5 The Department considers that a Trust should use the discretionary power to lift a disqualification only in the most **exceptional** circumstances. It is a clear intention of the Children Order that disqualified persons should be prohibited from undertaking any of the activities listed in paragraph 6.2 above, but there may be **rare** occasions where a Trust would feel justified in lifting the disqualification.
- 6.6 A Trust will wish to ensure that, where lifting a disqualification is an issue, the case is subject to thorough scrutiny at senior level and the process involves legal advisers. The decision should turn on whether the facts or circumstances which prevailed at the time of the offence or order no longer apply, having regard to:
- (a) date of offence or order;
 - (b) type of offence or order;



- (c) the degree of culpability of the person;
- (d) the person's activity and involvement with children since the offence or order.

6.7 A Trust should note that, in cases where it refuses to exercise its discretion, it is required to inform the person in writing of its reasons, tell the person that he has the right to appeal and the time limits on any appeal which may apply in the particular circumstances. (See paragraphs 6.8 and 6.9 below). Trusts will wish to ensure that the reasons given for refusing to exercise their discretion are of sufficient force to stand up to cross examination in court.

6.8 The different appeal provisions are contained in Article 94(3) in respect of privately run children's homes, Article 87 in respect of voluntary children's homes and Article 113 in respect of private fostering.

6.9 In the case of child minders and providers of day care a Trust must take additional action. As an intermediate measure it must advise an applicant of its **intention** to refuse to exercise its discretion. This preliminary notice (in writing) must set out the reasons for that intention, the person's rights including that of objection and the way in which that would be handled by a Trust. A further notice, again in writing is required if, after consideration of any objection, a Trust decides to refuse to exercise discretion. This notice must include the reasons for that decision and set out the right of appeal provided for in Article 131.

Disqualifications and Trusts' own provision

6.10 While the regulations do not apply to Trusts' own provision, children who are living with a statutory foster parent or attending Trust managed day care services or are being cared for by a salaried child minder, should similarly be protected from those who might wish to harm them or are otherwise unfit to care for them. Trusts will wish to for Caring for Children Regulations and these notes of guidance



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when considering the appointment of staff and any person's suitability for the work.



CHAPTER 7: PLACEMENT OF CHILDREN IN CARE WITH PARENTS AND OTHERS

7.1 Under the Children Order, a care order will only be made if the court is satisfied that:

- the child concerned is suffering or is likely to suffer, significant harm; and
- the harm, or likelihood of harm, is attributable to the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give; or
- the child's being beyond parental control.

It is important therefore to be especially careful when such children are placed with their parents. The Placement of Children with Parents etc Regulations reflect the philosophy of the Children Order that children in need can be assisted most effectively if the Trust works in partnership with the child's parents and that for most children the best place for a child to be brought up is in his own family. The regulations are made under Article 27(5) and provide for the welfare and protection of children who are in compulsory care and were placed under the care and control of a parent or guardian before the Children Order came into force (paragraph 14 of Schedule 8 to the Order (transitional provisions)) and to children who are in compulsory care and placed in accommodation with a parent, other person with parental responsibility or a person in whose favour a residence order was in force before the care order was made, after the Children Order is commenced. Unless otherwise stated references in this chapter to regulations refer to the Placement of Children with Parents etc Regulations.

7.2 A Trust should consider carefully whether a placement under the regulations is the only way to achieve the placement of a child with a parent or person who has or had parental responsibility. Where it is



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decided that a child's best interest will be met by such a placement the Trust should look again at why it is considered that the care order is still required. It may be that an arrangement can be negotiated between the parent and the Trust (involving the child and other significant individuals) which would enable the Trust to agree that application to discharge the care order is appropriate. Such an arrangement would need to include agreement on the level of support and supervision by the Trust and co-operation by the parents and all involved in working together in the child's best interests. If such an agreement can be reached and the court agrees to discharge the care order then the regulations will not apply.

- 7.3 In many cases where it is decided that a placement under these regulations is the right approach, it will be as part of the progress towards discharge of the care order. The management of the placement should aim to enhance the parents' role and support the family relationship with that aim in mind. Even in those cases where the discharge of the care order is not a foreseeable option, the possibility should be constantly reviewed and the aim should be to build a genuine working partnership with the parents. It is difficult to envisage a successful placement where this is not achieved.

Who is covered by the Placement of Children with Parents etc Regulations?

- 7.4 The regulations will always apply when a child in care is placed for more than 24 hours with a parent, other person with parental responsibility (not being a parent, or a guardian) or a person in whose favour a residence order was in force immediately before the care order was made (see Article 27(6)). A parent includes a mother and father of the child whether or not married. It should be kept in mind that a care order under the Children Order does not extinguish parental responsibility.
- 7.5 A child who is placed under the regulations will be subject to an interim or full care order made under the Children Order (Articles 57



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and 50 respectively) or under transitional arrangements made under the Children Order. This interim or full care order could have been made in any “family proceedings” (defined in Article 8(3)) such as matrimonial or adoption proceedings, not just proceedings which started out as an application for a care order.

- 7.6 The regulations also apply to children committed under the pre-Children Order law to Trust care under a court order made in matrimonial, guardianship, custodianship or wardship proceedings (where care is subject to the court’s direction) as these committals are deemed to be care orders (paragraph 11 of Schedule 8 to the Children Order). However, where any direction to this effect was included in the original order, a placement under these regulations would require judicial approval as the court’s direction-making power is preserved (see paragraph 12(4) of Schedule 8). If the Trust decides, in a case where care is subject to the court’s direction, that it would be in the child’s interest for him to be placed with a parent or other person with parental responsibility or a person in whose favour a residence order was in force immediately before the care order was made, the Trust in seeking the court’s approval should draw the court’s attention to these regulations.

Who is not covered?

- 7.7 Children who are looked after by a Trust but are not in its care by virtue of a care order are outside the scope of the regulations. Placement of children looked after by a Trust with relatives or friends whether or not they are in care under an order will be subject to the Foster Placement (Children) Regulations. Children subject to emergency protection orders (EPO) under Article 63 are not in care and they will not be subject to these regulations.

Placements of children aged 16 or over

- 7.8 The Children Order places new emphasis on the right of children to be involved in decision-making affecting their welfare and requires their involvement in Trust planning for their future, subject only to the



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understanding of the child (Article 26(2) and (3)). In everyday life, the older child increasingly accepts responsibility for his own decisions and parents gradually relinquish their control accordingly. For these reasons, the placement of child aged 16 or over, although subject to these regulations, are only covered by the provisions of regulations 4, 5 10 and 11. However, Trusts will wish to consider how far to apply the principle of the other regulations in their arrangements for such cases, depending on the maturity of the child and the individual circumstances.

Circumstances covered

- 7.9 The regulations will apply to the placement of children who have entered the care for a variety of reasons. For example, to a young person who has previously been in long-term residential or foster care or to a child who has spent a very short time away from home before placement with a parent, other person with parental responsibility or a person in whose favour a residence order was in force immediately before the care order was made. Alternatively a child may have remained at home pending court proceedings and remained there after the granting of a care order or a child could be returned home directly after a court appearance. In all such cases the regulations will apply and all the requirements of the regulations must be complied with before a placement is made except in the circumstances outlined in this paragraph and paragraphs 7.8 and 7.10. However regulation 2(4) allows a child to remain in an existing placement while investigations are made under regulation 3 prior to a decision under regulation 5 and action under Article 8. A short absence from home, such as a period of removal under an emergency protection order prior to the granting of an interim care order, will not prevent a Trust in all cases from deciding that to all intents and purposes the child is already living with the person with whom he may be placed under the regulations. This involves questions of fact and law and the Trust's legal advisers should be asked specifically for their advice in any particular case. In the last resort it is a matter for the courts to determine.



Immediate placements

7.10 In some cases, the Trust will recognise that it is in the best interest of the child to make an immediate placement under the regulations. For example, in the unforeseen breakdown of a foster placement requiring the child's immediate removal, the least traumatic move for the child may be to a parent. When an immediate placement is made all the regulations will apply but regulation 6 provides that only the following basic checks have to be carried out before the placement:

- (a) interviewing the person;
- (b) inspecting the accommodation;
- (c) obtaining information about other persons living in the household.

7.11 The decision to place the child must be made by a nominated person(s) (regulation 5). In the case of an immediate placement, remaining provisions of the regulations concerning matters which should be investigated before a placement is made should be carried out as soon as possible after the placement. It is the Department's view that this should be completed within six weeks of the immediate placement. All remaining provisions of the regulations are as relevant to the immediate placements as to other placements.

Short-term placements

7.12 Regulation 13 allows for a series of short, pre-planned placements with the same carer to be treated as a single placement. Typically, these placements may be for regular staying contact or to allow the carer or the child to have a break. The other regulations will apply as for a single longer-term placement. The conditions that such a series of placements has to meet to be treated as a single placement for the purposes of the regulations are:



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

7.13 Relevant placements of more than 24 hours are subject to the regulations. This includes short-term placements for purposes of contact. In planning and arranging such placements account must be taken of any directions by the court in respect of contact. The provisions of regulation 7 and the guidance on contact elsewhere may be relevant in setting up such arrangements in some circumstances. This reflects best practice, which recognises that proper planning and protection for a child is as necessary for a placement of short duration as for a long-term placement. The action required by these regulations need to be taken only in respect of an established arrangement such as a weekly, weekend placement if the conditions of regulation 13 are met. If these conditions are met but there is no significant change in circumstances, the Trust should consider re-applying afresh the requirements of the regulations as appropriate.

Court directions

7.14 When a court gives directions about contact in making a care order or an order under Article 53 the Trust should draw the court's attention to these regulations (regulation 2(5)). Court direction will override the regulations in any case of incompatibility. There would then be no need for a decision by the nominated person under regulation 5, but there would be a need for notification, for support and supervision of placement (subject to directions in these respects from the court).



Overlap of regulations

- 7.15 It is possible that both the Placement of Children with Parents etc Regulations and the Foster Placement (Children) Regulations will operate in tandem. For example, a child may be accommodated with a foster parent from Monday to Friday and return to the home of a parent Friday evening to Monday morning each week. However when a child placed with foster parents under the Foster Placement (Children) Regulations stays for a short period in another household not being that of a parent, other person with parental responsibility or a person in whose favour a residence order was in force immediately before the care order was made, neither the Foster Placement (Children) Regulations nor the Placement of Children with Parents etc Regulations will apply. An example of this is a stay at a school friend's home or with friends of the foster family.

Parental responsibility

- 7.16 The Trust should negotiate with the parent with whom the child is placed under these regulations the most appropriate arrangements for exercising their respective parental responsibility. The older child, parents and others with parental responsibility will need to be involved in the discussions about the exercising of that responsibility. It needs to be borne in mind that the Trust can still control the exercise of parental responsibility by others (Article 52(3)(b)) to promote and safeguard the welfare of the child and it is essential that the Trust defines clearly in the placement agreement to what degree the parent should exercise his parental responsibility without reference back to the Trust.
- 7.17 Where the proposed carer is the unmarried father who has not acquired parental responsibility by agreement with the child's mother or a court order, the Trust may wish to draw his attention to the Children Order's provisions for obtaining it. If he does not wish to, or is unable to, obtain parental responsibility, the placement should be agreed on the basis of delegated rather than shared responsibility. A non-parent in whose favour a residence order was in force immediately before the



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care order was made does not have parental responsibility after the care order is made. A placement with such a person would also be on the basis of delegated responsibility in accordance with Article 5(8). However, the need to discuss and agree the terms of the placement apply equally to these carers as they do to those with parental responsibility.

- 7.18 Financial responsibility for the maintenance of the child is recognised in the eligibility of the carer to apply for Social Security benefits. The Trust should ensure that the entitlement to benefit is considered in the planning of these placements.

Aims and objectives of placement

- 7.19 **When planning for the welfare of a child, consideration should be given at all stages to the possibility of a placement under the Placement of Children with Parents etc Regulations.** The child's particular needs and circumstances at any given time will determine this can be considered as an option. The aim of such placements will often be reunification with the family, but this is not always the case. Short-term placements under the regulations may be used to strengthen family links within a long-term plan which does not envisage the child's return to the family in the near future.
- 7.20 It is important that the purpose of the placement is clearly identified and discussed with all concerned during consideration of the placement and that the aims and objectives are understood by the child, the proposed carer, and others prior to the placement (see Article 26(2) and paragraphs 7.30-7.34 below on consultation). The arrangements for and the aims and objectives of the placement should form the basis of the placement agreement with the carer. Arrangements, aims and objectives may change during a placement in the light of unforeseen events or in the course of review meetings while the child is in the placement. New aims and objectives will require discussion between all concerned and any new tasks for the carer will need to be specifically agreed. Some placements will be within specific time limits; others may be open-ended and in these



placements a careful review of the aims and objectives will avoid drift. Any changes to the plan should be recorded in writing and reflected in the placement agreement.

Assessment

- 7.21 The welfare duty contained in Article 26(1) applies to all decisions made by a Trust in relation to a placement of a child under the regulations. In deciding whether such a placement is the best way of meeting its welfare duty to the child a Trust will need to assess the various needs of the child and take account of all the circumstances in the case. Each individual child will have particular needs which may change over time, although the original reasons for the care proceedings will give some indication of the degree of supervision and type of support the placement will require. Every placement must be appropriately supported and supervised with clearly stated short-and long-term objectives which are reviewed regularly.
- 7.22 General guidance on assessment in planning the placement of children is to be found in the chapters dealing with Arrangements for Placement of Children and Review of Children's Cases respectively. Factors which need to be taken into account in assessing a child's needs and the suitability of a placement include:
- (a) **contact with family:** including with a parent who is not the carer, siblings and other relatives; the requirements of Articles 29 and 53 should be borne in mind. Where the placement address is not within easy reach, the Trust should consider what advice and assistance can be given under Article 30; where the carer is not the parent, is from a different religious, racial or cultural group to that of the child, provision should be made to maintain close links with the child's religious and cultural heritage;
 - (b) **health care needs:** the plan should include arrangements for health care based on an assessment of the child's health care needs. Special arrangements may be necessary to



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ensure continuity of specialist care and treatment for children with a disability. The carer may need to acquire knowledge and skills to cope with a child's medical condition;

- (c) **education:** remaining at the same school offers not only continuity of education but stability in an important part of a child's daily life. Friendships and involvement with community activities (clubs etc) will be particularly important to the child. Where a placement is expected to be short-term or during the settling in period of a longer-term placement, the Trust should consider whether it would be advantageous to provide transport so that the child can continue at the same school. This is especially important if a child is at a critical stage of education or where a child has special educational needs.
- (d) **religion:** the importance of religion in the lives of some families and children must be recognised (see Article 26(3)(c)). Where religion is important it should not be assumed that both parents, or other carers will be of the same religion or, even if that is the case, that religious practices will be the same. Placement with one parent or other carer of a different religion or practice may be more acceptable to the other parent (who retains his parental responsibility for the child) if others of that parent's religion are able to play a part in the child's religious upbringing.
- (e) **race, culture and linguistic needs:** religion is often an element in culture and to some parents and children may be a dominant factor. In seeking to understand fully a child's needs and considering the suitability of a placement, social workers need to be aware of differences between minority groups and the significance of religion and culture in relation to racial origin, and to guard against simplistic assumptions of similarity. Such an understanding is also essential where the child has parents of different races and is to live with one parent only. Choice will be influenced by the child's



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previous family experience and by the child's wishes. As an important principle, children should be given opportunities and encouragement to enjoy and to take a pride in their racial and cultural heritage. Linguistic needs should be considered also where appropriate. For example, the child's first language may not be the same as the carer's. This might be the case when a child who has been placed with foster parents since birth returns to live with parents.

- (f) **needs of siblings:** the needs and relationships of siblings should always be considered, even though not all may be in care. The needs of the individual child, however, should not be subordinated to the needs of the group;
- (g) **packages of support:** the practical help which the carer and the child may need if the placement is to be successful should be assessed and an appropriate package of services provided (Article 18). This may include support services provided by the independent sector.

Inquiries prior to placement

- 7.23 The inquiries to be made prior to placement are set out in regulation 3 and Schedule 1 to the regulations. Regulations are framed in terms of a single carer but under the rules of interpretation references to the singular include the plural. Wherever responsibility for a placement of the child is to be shared equally by two people in the same household both should be involved in the preparation of the placement, accept the requirements placed upon them, be subject to the necessary checks on their suitability etc and sign the placement agreement.
- 7.24 The regulations require a Trust to assess the suitability of the proposed carer(s) and, where relevant, a cohabitee, and to obtain information on, and consider the range of factors set out in, Schedule 1 to the regulations. Much of the information to be obtained in the pre-placement inquiries may well be in the Trusts's case records.



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Relationships between parents when only one is to be the carer or between a parent and others with parental responsibility need to be carefully assessed and taken into account. The aim should be to identify all the factors which contribute to a general picture of the carer, his family and way of life. Trusts should check their own records in respect of the carers and other members of the household, and seek the views of any other Trust or Agency to which they have applied to foster or adopt, and of the Trust in whose area the carer lives.

- 7.25 The police should be asked to check, with the proposed carer's permission, whether he has been convicted of any relevant offence unless the information is already available. The permission of other members of the household should be sought for the Trust to ask the police to check whether they have any relevant convictions recorded against them. Attention should be drawn to the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 as amended by the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 1987. This allows for convictions which are spent under the terms of the 1979 Order to be disclosed by the police.
- 7.26 In checking health matters it is for the Trust to determine the extent of the inquiries needed in each case. The most satisfactory source of health information will usually be a medical report. The need for the carer or adult members of the household to be asked to undergo a medical examination as part of the pre-placement inquiries is a matter for the Trust to decide in the light of medical advice and the circumstances of each individual case.
- 7.27 The social worker should meet the entire household and explore the relationships of all the members (particularly where the carer is co-habiting with another person who does not have parental responsibility for the child). The social worker should also assess and consider with the carer:
- the carer's capacity to nurture, protect and provide for the needs of the child;



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- the carer's current attitudes and expectations in relation to child rearing, discipline, understanding and perception of the child and the proposed placement;
- the extent to which other members of the household will participate in the care and daily life of the child;
- the demands made on the carer by other members of the household such as elderly relatives requiring care;
- the views and feelings of other children in the family about the proposed placement; and
- the potential impact on family and social life.

7.28 As well as assessing the suitability of the proposed carers and the other members of the household, the social worker should inspect the proposed accommodation for the child. This inspection should include living, sleeping and washing facilities. Where a child is to share a bedroom with another member of the household, particular attention should be given to ensuring that the arrangements are in the child's best interest.

7.29 If a placement is unsuccessful or comes to an unplanned end, the social worker will need to reconsider all the relevant factors within the initial assessment before making another placement under the regulations. If complete and up-to-date information is held there will be no need to obtain all the same information again. It should, however, be confirmed that there have been no significant changes in circumstances and that no new relevant information is available for consideration. Any new information or significant changes in circumstances, including a person joining or leaving the household will require further investigation.



Whom to consult

- 7.30 It is essential that when planning a placement to involve all those concerned with the child from the outset. The Trust needs to co-ordinate the involvement of all relevant agencies and individuals who are significant in the child's life and the child himself. The Placement of Children with Parents etc Regulations does not contain any requirements to consult beyond the requirements of Article 26(2) and (3).
- 7.31 Article 26(2) states that before making any decision with respect to a child whom it is looking after or proposes to look after, the Trust should so far as is reasonably practicable obtain and take account of the wishes and feelings of –
- the child;
 - his parents;
 - any person who is not a parent of his but who has parental responsibility for him; and
 - any other person whose wishes and feelings the Trust considers to be relevant.
- 7.32 The Trust is advised to use its discretion under Article 26(2)(d) to consult the relevant statutory and voluntary agencies which are or have been previously involved with the child and his family. In most circumstances these will include the local education and library board (which will need to consult the child's school before offering advice and inform the school of decisions taken), the child's GP, and, on occasion, the probation service and the police. The Trust should seek to identify and make contact with specific officers in other agencies who will be contacted when pre-placement inquiries are made. Existing carers, including foster parents, residential social workers etc should already be involved in planning for the child but with a specific opportunity to contribute to considerations of a



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placement under the regulations should be arranged.

- 7.33 The child's parents, grandparents and other relatives involved with the child should be invited to participate actively in planning such a placement and to make their views known. The Children Order requires that parents should be involved in all planning for the child, and should be kept informed of significant changes and developments in the plan for the child. Such sharing of information and participation in decision-making should be the norm subject only to the overriding best interest of the child.
- 7.34 In cases of child protection, **Volume 6: Co-operating To Protect Children** recommends that the views of a child abuse case conference should be sought when the Trust is considering major changes in the plan for the child. A placement under the regulations is regarded as a major change on which a case conference would expect to comment and make a recommendation to the nominated persons who will make the placement decision. Views should be sought in writing so far as is practicable from all those identified above. The outcome of consultations should be recorded, including a note of verbal responses and failure to respond.

The child

- 7.35 The child's views should be sought in discussion with the child, subject to the child's understanding (see Article 26(2)(a)). The child will usually attend meetings to review his case. When this does not happen it will always be necessary for the child's views as expressed to be discussed and given due consideration at every review meeting and at case conferences and for those views to be taken into account when a placement decision is made. The social worker should be aware and acknowledge that there may be good reasons why the child's views are different from those of his parents and those of the Trust. The more mature the child, the more fully he will be able to enter into discussion about plans and proposals and participate in the decision-making process. With young children too, the social worker should make efforts to communicate with the child and discover



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his real feelings. All children need to be given information and appropriate explanations so that they are in a position to develop views and make choices. Providing children with reassurance and helping them with their anxieties about a placement is essential to the success of a placement. Children should feel that they have been properly consulted, that their views have been properly considered and that they have participated as partners in the decision-making process. However, they should not be made to feel that the burden of decision-making has fallen totally upon them. Children should not be forced to participate in meetings if they choose not to do so, but their reasons should be explored in case a change in arrangements would enable them to come to a different decision.

- 7.36 Where the child has communication difficulties appropriate provision will need to be made so that it is possible for the child to express his views and for those views to be considered. Such provision could include someone with the appropriate communication skills such as a sign language interpreter. In the case of a child whose first language is not English, an interpreter should be provided if necessary.

Whom to notify

- 7.37 It is essential that those involved in the decision-making process are notified of the decision (see regulation 8) so that they may have an opportunity to make any necessary arrangements for their involvement in the placement or to make their views on the placement decision known. The people to be notified are those specified in Article 26(2) and regulation 8(4):

- the child;
- his parents;
- any person who is not a parent, but who has parental responsibility for the child;



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- any other person whose wishes and feelings the Trust considers to be relevant;
- the local education and library board;
- the child's general registered medical practitioner;
- a person, not being an officer of the Trust, who has been caring for the child immediately before the placement, (eg a foster parent who was looking after a child before the placement decision was made; and
- where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the residence order was made.

7.38 The Trust will need to identify others who were not involved in the decision-making process but who will be involved with the child and have a need to know of the placement arrangements. Consideration should be given, in the light of circumstances of an individual case of the need to notify people who have been involved in the child's life but who are not specified in regulation 8, such as a relative or friend.

7.39 Trusts should notify the specific officer in other agencies already identified and consulted about these placements. These officers should be asked to disseminate the information where appropriate to their colleagues in the field who are or will be involved with the child. In those cases where a child abuse case conference has been consulted, the members of the case conference will need to be notified of the outcome of their recommendation.

The decision

7.40 In carrying out their duties, Trusts have to satisfy themselves that this is the most suitable way of performing their general duty under Article 26(1). Regulation 5 requires that the nominated person makes the decision on these placements because of the importance of the



decision of the child and the need for an oversight of the decision. He may designate more than one officer to take placement decisions on his behalf, where the size and structure of the Trust so require. Where another officer is designated as decision-maker, the nomination should reflect the serious nature of the decision. The nomination should rest at senior management level and should be in writing. Nominees will need a thorough knowledge of child care practice in order to provide a considered opinion.

Agreements

- 7.41 During the consideration of a placement, the Trust and the person with whom the placement is to be made should draw up a placement agreement under regulation 7 of the Placement of Children with Parents etc Regulations. The placement agreement will be based on the plan required by the Arrangements for Placement of Children (General) Regulations. The plan and the agreement should be reviewed and amended as necessary. Other than in the cases of children aged 16 or over and immediate placements (see paragraphs 7.10 and 7.11) the Trust and the parent will need to reach agreement on the terms of this document before a placement commences. There is no requirement that the agreement be signed, but drawing up and signing the agreement together will demonstrate the carer's and the Trust's commitment to the placement and recognise their respective roles.
- 7.42 The matters to be included in the agreement are specified in Schedule 2 to the Placement of Children with Parents etc Regulations and include the support the Trust will provide. Regulation 7 states that agreement should be reached on all matters specified in Schedule 2 "so far as is practicable". This means that not all particulars will apply to all cases. It does not mean that certain particulars can be overlooked for convenience. If agreement is not reached and the Trust still considers placement to be in the child's best interest, it will need to work with the carer to renegotiate the plan and placement agreement. Placement cannot be made until agreement is reached.



- 7.43 A copy of the agreement should always be given to the carer and to the child, subject to his age and understanding. Where two prospective carers are in the household in which the child will live, both should agree the terms of the placement agreement (see regulation 7 and Schedule 2) and sign the document before the placement is made. Children should not usually sign agreements but on placement of an older child, a signed agreement may be a useful way to record the young person's understanding of the aims of the placement and the degree of responsibility taken on by the carer.
- 7.44 Agreements will need to be amended whenever a significant change in the placement arrangements is agreed. The parent and the child should be confident that they may seek an amendment if a change in circumstances makes this sensible or if a particular problem is causing difficulty. It is likely that the need to make changes to the agreement will crop up from time to time as part of the process of placement supervision. Some changes may best be dealt with in the review process but some decisions should not wait. In these cases, changes will need to be agreed after the social worker has discussed the situation with his supervising officer and the persons actually involved.

Involvement of parents when they are not carers

- 7.45 Parental participation is one of the key provisions of the Children Order and a parent with whom the child is not living should be kept informed about changes in circumstances and of any changes to the placement arrangements unless this is contrary to the child's best interests. Proposals and decisions arising out of supervision and review of the placement should be discussed with parents and their views taken into account along with the views of the child (where he is of sufficient understanding) so far as this is practicable and in the best interests of the child. The nature of the contact between parents (where they are not the carers) and the child and their involvement with the carer will be a crucial part of the placement agreement and will require careful monitoring.



Preparation for placement

- 7.46 The fact that the child is to be placed with an adult known to the child and the Trust does not make proper preparation for the placement less necessary. Preparation should include the assessment of the child's needs in the placement; an assessment of any risk attached to the proposed placement; early discussions with the existing carer and parents and the child of the objectives of the placement and the basis for and terms upon which the placement is made; visits to the proposed placement; identification of the type and level of support required (including social work, therapeutic and/or remedial services and finances or practical help). The establishment of clear aims and objectives of the placement are essential parts of the placement plan and subsequent placement agreement.
- 7.47 A child's planned return to his family after a placement with another carer will need careful preparation, and child and family will need support over the settling-in period until the child is re-integrated into the family. A period of gradual re-introduction may be needed, depending on the length of time the child has been away from the family and the changes which have occurred there. Contacts with friends and previous carers should be maintained if this is in the child's best interests. Parents, too, need to be prepared for changes in the child's habits, interests and routines; and for the possibility of disturbed behaviour while the child is settling in. The Trust should assess the support needed to achieve a successful placement and should provide any assistance or services it considers appropriate.

Support, supervision, and monitoring of placement

- 7.48 The pre-determined objectives of the placement together with regular interviews will provide the best guide to the specific requirements and arrangements for support, supervision, monitoring and termination of each placement. Regulation 9 of the Placement of Children with Parents etc Regulations sets the minimum requirement concerning supervision of placements by the Trust. Supervision and monitoring of the placement may lead to a change in the level of support for



the placement and/or revision of the agreement. The identification of a difficulty should lead to discussion of the need for different or increased support rather than automatic termination of the placement. Any major change may require further consultation. The plan for the child and the agreement should be amended to reflect this revision. Such amendment should be properly recorded and a note of the amendment given to the carer and others in writing.

Support for the child

- 7.49 Each child placed under the Placement of Children with Parents etc Regulations should have a social worker allocated for his support and supervision. In most cases this will be the same officer who provides support for the carer. There may be occasions however, when circumstances indicate that the child should have “his own” social worker separate from his carer’s social worker. The intention of support for the child is in keeping with the Trust’s general duty under Article 26, to safeguard and promote the child’s welfare. Typically this will be achieved by a pattern of visits to the child in his home as required in the regulations. Additionally office visits and other meetings may be necessary. A record of face-to-face meetings must be maintained as a contribution towards the process of planning and review. As part of this process social workers will need to consider regular contact with other professionals and significant adults concerned with the care, health, education and training of the child in order to monitor his progress and development. Not the least important, again in keeping with the principles of the Children Order, are opportunities to discuss with the child his wishes and feelings in relation to the placement and future decisions.

Support for the carer

- 7.50 The carer will have agreed to co-operate with such supervision as has been arranged as a condition of the placement and as set out in the agreement at the commencement of the placement. In most cases there will be an agreed package of support. The aim should be to enhance the carer’s ability, and to build upon the strengths within



the family and to minimise weaknesses. The supervising social worker should ensure that appropriate support, advice and assistance are discussed with and provided to the carer and other family members as required. In some cases it may be necessary for the carer to be allocated a social worker or other support services at times when the placement is under stress. The power to make such provision for the child's family or any member of that family is provided by Article 18(3).

- 7.51 The supervising social worker will need to be aware of the delicate balance to be achieved in recognising and supporting the needs of the carer, without undermining his ability to cope. The social worker's role is to support the carer in the exercise of parental responsibility to the extent that has been agreed. This will particularly apply where a placement is under strain because of the child's behaviour or involvement with another parent.
- 7.52 Other adults in the household may be involved in discussions about the child or the placement. The supervisor should ensure, however, that contact is made and progress of the placement discussed with the carer so that others do not take over the carer's role. This is particularly important when the carer is not the head of the household and others may seek to deny the supervisor access to the carer or child.

Supervision of the placement

- 7.53 Regulation 9 of the Placement of Children with Parents etc Regulations provides a framework of requirements for the social worker's task of supervision of the placement and working with the child and carer towards achieving the objectives of the plan for the child (see paragraphs 7.64-7.66 for guidance on supervision by a Trust). The social worker who is the supervisor of the placement should have acknowledge of the child before placement and the child should know the particular social worker. The supervisor will, except in exceptional circumstances, have been involved in consideration of the plan for the placement. When a new supervisor takes over it is



essential that the reasons are explained to the carer and child. So far as is practicable, a planned handover should take place and whenever possible the new supervisor should be introduced to all the significant individuals in the child's life, including other agencies' workers as well as to the child.

Visits

- 7.54 Visits should take place as often as the circumstances of the individual child and placement require, but at the very least, as specified in regulation 9(1)(b); within one week of the beginning of the placement, then at intervals of not more than four weeks or when reasonably requested by the child or the person with whom the child is placed as circumstance may require. The regulations require that on each visit, so far as is reasonably practicable the child should be seen alone. Visits to the child afford an opportunity for independent observations and direct contact with the child. If a child is not seen, or cannot be seen alone then a further visit must be arranged at short notice to see the child. In some cases this may result in a planned, notified visit followed immediately by an unnotified visit. If a child is said to be elsewhere this must be checked out and confirmed by the supervisor as soon as possible.
- 7.55 The minimum requirement for visiting a child in a series of short-term placements is once during the first placement in the series and on two other occasions during the series while the child is in the placement (regulation 13(3)). The frequency of such visits will depend on the individual circumstances of the case and should be increased where necessary to ensure that the child's welfare is safeguarded and promoted.
- 7.56 It will also be important for the social worker to study the interaction between a child, carer and family and to provide to all those people (including if of sufficient age and understanding the child) a clear message of expectations and feedback on the social worker's observations. Depending on the age of the child he may be seen at



home, at the other parent's home, on contact visits, at school, in the social worker's office, at a previous care establishment, or less formally, at a café, for example or other setting where the child feels at ease. Contacts may be through any combination of these venues but it is as important to see the child with his carer as it is to see him separately. Even with a teenager the social worker should avoid a regular pattern of contacts which excludes visits to him in the placement and in the presence of the carer. Contacts with the carer should be either in the carer's own home or at the social services' office. Whilst contact elsewhere may occur fortuitously and be recorded they should not be seen as substitutes for "visits".

- 7.57 It will be necessary to check the perceptions of the child and carer in relation to the aims of the placement plan and the ways these may be or are being achieved. The social worker will need to feed back to the child and the carer the social worker's own perceptions of the way the placement is developing over time in relation to changes in circumstances. He should acknowledge attainment of an aim or the failure to do so. The child and the carer should have a sense of stability and security to allow them to build up trust in each other. Thorough and perspective social work supervision and monitoring will help to develop this, but it should avoid undermining parenting skills and the authority of the carers. It will be helpful in this context to discuss the support provided to the child and the carer and to explore with child and carer whether a change in support is needed.

Others in the placement household

- 7.58 In order to monitor the suitability of the placement environment the social worker will need to assess the attitudes of others in the household to the child and the placement and to be aware of significant changes in their attitude or circumstances. Social workers will need to be aware of how the accommodation is utilised and any changes in its use during the placement. This means that there is need to see the child's room which will have to be handled sensitively if the room is shared with another young person. The social worker will need to be alert to other sensitive issues of privacy which may arise.



Report of visits

- 7.59 After each visit, the Trust is required to ensure that the social worker who made the visit produces a written report (regulation 9(2)). The report should indicate that the child was seen and if not why not, and if the child was seen alone. The report should also comment on the child's welfare and the success of the placement including any comments made by the child or the carer. Any matter for concern or difficulties should be highlighted so that the need for any necessary action can be discussed with the social worker's supervisor.

Termination of the placement

- 7.60 Termination will arise from a variety of situations. It is essential that the social worker recognises when the placement is no longer in the best interests of the child. Evidence of failure to thrive, a suspicion of abuse, a lack of co-operation by the carer or an inability to cope should be seen and recorded as indicators that the placement should be reviewed in light of the child's needs. The social worker should be alert also to less obvious or unstated problems; a child may not make a direct request for removal but may make an increasing number of seemingly unrelated complaints or behave in an unexpected or uncharacteristic fashion.
- 7.61 It will be possible in most cases to plan for removal and so minimise stress to the child and counteract a sense of failure in the carer or child. However, immediate action will be necessary on occasion and in such cases the social worker will need considerable support from the Team Leader. Under the placement agreement to which the carer is a party the Trust's duty to remove the child at any time is acknowledged. Regulation 11(1) places a duty on the Trust to remove a child if the Trust considers that to leave the child in the placement would be contrary to the child's interests (Article 26(1)).
- 7.62 Different degrees of planning will be possible for each of these situations ranging from a carefully prepared planned move to immediate action in an emergency. Wherever possible and if



this is in the child's best interests, a placement with the child's wider family, or family friends should be taking into account the child's wishes and views and those of his parents. This is in accordance with the Trust's duty under Article 27(7). It will be necessary to consider who will need to be informed and consulted about the new considerations and decisions. Informing may or may not involve giving explanations which raise issues of confidentiality and care and will be needed to avoid contributing to tension within the family circle. It will be necessary to give explanations to the child and to the carer when they have not made the request to terminate the arrangement and to the other parent or guardian. There will also be a need to consider the effect on any other children, who may not be in care but who are part of the household. Equally there will be times when a placement involves more than one child of a family yet only one child is to be removed. The child removed and those left in the household will need explanations and increased support. The Trust should ensure that all those involved with the child and who need to know of the termination or proposed termination of a placement are informed in writing as soon as is practicable. This will include the carer and parents who are not carers.

- 7.63 The child's needs for balance and stability is equally critical at the end of a placement as at the beginning. Where the child has taken the initiative over leaving, it will be important that he is helped to articulate his reasons where possible and handle the change in the least damaging way as part of his own learning. In other situations the child will need reassurance; the social worker will need to give the child opportunities to discuss his feelings and anxieties about the future.

Inter-agency arrangements

- 7.64 Where a child is placed by a Trust (the "transferring Trust") under the regulations in the area of another Trust ("the receiving Trust") the transferring Trust should inform the receiving Trust of the placement and provide sufficient information for the receiving Trust to be able to complete its register in accordance with the Arrangements for



Placement of Children (General) Regulations. The transferring Trust should notify also the other relevant persons of the placement and arrangements for supervision etc (regulation 8(1)).

- 7.65 When, prior to placement under the regulations, a child has been cared for or supervised by a voluntary organisation on behalf of a Trust, a Trust may decide in the child's best interests to ask that voluntary organisation to undertake supervision of the placement on its behalf. In such cases the statutory duties remain with the Trust and the Trust is responsible for ensuring that the supervising voluntary organisation keeps the Trust informed.
- 7.66 Whatever the arrangements, the Trust remains responsible for the child. Wherever it is practicable and appropriate arrangements should be made to combine the review under Article 45 and other assessments and reviews.

Placement outside Northern Ireland

- 7.67 A Trust with responsibility for the care of a child should not arrange a placement outside Northern Ireland unless it is satisfied that all the requirements of the Placement Regulations can be met, so far as is reasonably practicable. In addition the effect of such a placement on parental contact should be considered. Article 27(8) requires a Trust to place a child near his home, so far as is reasonably practicable. Such a placement decision is subject to the welfare duty (Article 26(1)).
- 7.68 No placement of a child in care outside Northern Ireland is permitted unless the Trust has obtained the approval of a court (Article 33). This is because a long-term placement under these regulations may in fact be properly regarded and handled as an emigration or may in time change its nature so that it becomes emigration. Where such a placement is authorised, the Trust should ensure, so far as is reasonably practicable, that the placement is in accord with the Placement of Children with Parents etc Regulations. Where the child is moving to another jurisdiction, the effect of the care order may be



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transferred to the relevant public authority in the receiving jurisdiction under regulations (see paragraph 2.75).



CHAPTER 8: CONTACT BETWEEN CHILDREN AND PARENTS ETC

- 8.1 The Children Order imposes a duty to promote contact between a child who is being looked after and those connected with him. This applies whether a child is accommodated by voluntary arrangement or as a result of a court order. It also empowers the courts to make orders regarding contact in all circumstances where a child is in care.

Legislative framework and general principles

- 8.2 Article 53 requires the court to consider the proposed arrangements for contact between a child who is the subject of care proceedings and the child's parents and other involved relatives. The court may make directions about the kind or amount of contact which should be allowed. When preparing an application for a care order, an outline of the proposed contact arrangements should be drawn up, so that the court can give consideration to the Trust's proposals and the submissions of others about the proposals for contact when applying for an interim or full care order.
- 8.3 The Contact with Children Regulations made under Article 53(8) impose requirements on Trusts in relation to refusal of contact, departure from the terms of an order made under Article 53 and notification of variation of supervision of contact arrangements made otherwise than under an Article 53 order (see Annex D).
- 8.4 When an order for contact under Article 53 is in force, the Trust remains responsible for the child's welfare. Subject to the terms of the order in relation to decisions about contact, the Trust must continue to plan and care for the child in accordance with its general duty under Article 26(1)(a). In handling decisions about contact within the terms of the order, Trusts should continue to apply the principles set out in this guidance.



Contact with children in care

- 8.5 Where a child is in care, the Trust must allow reasonable contact with a child's parents, any guardian and any other person with whom he was living under a court order immediately before the care order was made (Article 53(1)). The court order may be a residence order or an order under the inherent jurisdiction of the High Court. The power to make orders concerning contact are set out in Article 53 (2), (4), (5), (6) and (7). In the event of a dispute about contact when a child is not in care, an Article 8 order may be made on the application of the child, a parent or other person, if the matter cannot be resolved by agreement, or the representations procedure has not provided a solution.
- 8.6 The Contact with Children Regulations require a Trust to notify those affected about proposals to change arrangements for contact in relation to a child in care. If those arrangements are defined in a court order, regulation 3 provides for the terms of the order to be departed from with the agreement of the person named in the order in specified circumstances. In these cases, notification should also be given to the child's parents (where he is not the person with whom the agreement has been made), a guardian, a person in whose favour a residence order was in force immediately before the care order was made and, if the child is in care, any person who had care of the child by virtue of a wardship order and any other person whose wishes and feelings the Trust considers to be relevant (regulation 2).
- 8.7 Subject to any order of the court, it is for the Trust to make decisions about contact arrangements in an individual case where a child is in care. These arrangements should include the child's parents, any one else with parental responsibility for him and any relative or friend of the child, unless it is not reasonably practicable or consistent with the child's welfare to do so. To support this duty, the Trust is required to take reasonable steps to inform the child's parents and any other person who has parental responsibility for the child of the child's address (Article 29(2)). However, information need not be given if the child is subject to a care order and it would prejudice the child's welfare to give it (Article 29(4)). Equally, a parent or other



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person with parental responsibility for the child in care must inform the Trust of his address (Article 29(2)(b)).

Contact with children looked after by voluntary agreement

- 8.8 Arrangements for contact with children looked after by voluntary agreement are a matter for negotiation and agreement between the Trust, the child, parents and others seeking contact. The Trust should ensure that parents and others know where to seek advice about contact.

Promotion of contact with children not looked after

- 8.9 Where a child in the area of a Trust is in need and is living apart from his family but is not looked after by that Trust, paragraph 11 of Schedule 2 to the Children Order requires the Trust to promote contact between the child and his family. For example, in the case of a child living in a long-stay establishment, the Trust could decide to provide services to the child or family under Part IV of the Order to promote contact.

Importance of contact

- 8.10 The interests of the majority of children will be best served by efforts to sustain or create links with their families. Contact in the sense of personal meetings and visits will generally be the most common and, for both families and children, the most satisfactory way of maintaining their relationship. Other means which can help to keep family bonds alive should also be borne in mind: letters, telephone calls, exchange of photographs. Contact, however occasional, may continue to have a value for the child even when there is no question of returning to his family. Such contact can keep alive for a child a sense of his origins and may keep open options for family relationships in later life.
- 8.11 The first weeks, during which the child is looked after by the Trust, are likely to be particularly crucial to the success of the relationship



between the parents, the social worker and the child's carers and to the level of future contact between parents and child. It is at this time that patterns are set which it may be difficult to change. Parents should be involved in the assessment and planning prior to placement wherever possible. Emergency admissions require special care if parents are to be reassured from the outset that they have a continuing role in their child's life and to minimise distress for the child. Early visits and meetings should be encouraged, even though parents may need help to enable them to cope with the child's distress and their own. These considerations, subject to whatever safeguards are necessary for the child's protection, are equally important where children are subject to emergency protection orders.

Contact and child assessment orders

- 8.12 If, in making a child assessment order, the court directs that the child may be kept away from home, it must also give directions as it thinks fit about contact between the child and other persons during this period (Article 62(10)). A temporary overnight stay cannot be equated with being placed in care, but the court may well be guided on contact by the presumption of reasonable contact between a child in care and his parents, guardian and certain other persons established by Article 53. The court will also wish to consider requests to be allowed contact from other persons who have to be notified of the hearing. As with other questions affecting the child the court must give paramount consideration to the child's welfare when considering contact (Article 3).

Contact and emergency protection orders

- 8.13 Where the court makes an emergency protection order (EPO) it has the discretion to give directions as appropriate with regard to contact which is or is not to be allowed between the child and any named person (Article 63(6)(a)). The court direction may impose conditions (Article 63(8)). However, subject to any of these directions, there is a general duty on the applicant to allow the child reasonable contact with a range of persons. These are his parents, any person who is



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not a parent but has parental responsibility, any person with whom the child was living before the order was made, any person in whose favour a contact order (an Article 8 order) is in force with respect to the child, any person who is allowed contact by virtue of an order under Article 53 (see guidance in **Volume 1: Court Orders and other Legal Issues**) or anyone acting on behalf of any of these people. The court may give directions regarding contact not only when the EPO is made, but also at any time while it is in force and may vary the directions at any time.

Contact with a child in police protection

8.14 While a child is in police protection under Article 65, the designated officer must allow such contact (if any) as he considers is reasonable and in the child's best interests with the following categories of persons:

- the child's parents;
- any person who is not a parent of the child but who has parental responsibility for him;
- any person with whom the child was living immediately before he was taken into police protection;
- any person in whose favour an Article 8 contact order is in force with respect to the child;
- any person who is allowed to have contact with the child by virtue of an Article 8 order;
- any person acting on behalf of any of those persons.

If the child in police protection is accommodated by a Trust for the area in which the child usually lives, the Trust is required by Article 65(11) to afford such contact to these people.



Planning and contact

- 8.15 The responsible authority must make plans for the child (see guidance on planning contained in Chapter 2—Arrangements for Placement of Children). Consideration of contact is an essential element in the planning process. So far as is reasonably practicable, the views of the child, the parents and the child's carers must be ascertained before a decision about contact arrangements is made (see Articles 26(2), 76(2) and 92(2) of the Children Order). The value and purpose of contact should be clearly understood and agreed so far as possible by all concerned. There should be a clear understanding from the outset about all the arrangements and what is expected of the parents, the responsible authority and the child's carers in connection with the arrangements.
- 8.16 The contact arrangements should include those made in respect of relatives, siblings, grandparents and unmarried fathers; all those with whom the child's contact should be preserved. In some cases it may be appropriate to identify relatives, who may include a parent, with whom contact has lapsed and to follow up the prospects of re-establishing contact. Care will clearly be needed where there is family or marital conflict, but responsible authorities should be ready to explore possibilities of preserving, establishing or promoting contact which could be beneficial to the child.

Placement and contact

- 8.17 The implications for contact are among the factors which should be considered when deciding where to place a child. In the case of children looked after by a Trust, Article 27(8)(a) specifically requires the Trust to place a child near his home, so far as practicable, subject to his welfare being safeguarded. The effect on parental contact should always be considered when it is proposed to seek the court's consent to the emigration of a child in care (Article 33).



The setting for visits

- 8.18 Visits by the parents to the child in his foster home, residential home or in the family home are the most usual forms of contact. They can provide continuity for the child in that setting and opportunities for the parents and carers to meet. If family reunification is the plan, visits should be in the family home at the earliest possible stage. Such visits also have the advantage of maintaining links with the neighbourhood to which the child will be returning. However, other venues may have advantages for some children and in some circumstances. Outings are one example. Whatever the venue, the aim should be to insure that privacy and a welcoming and congenial setting are available. If possible, parents should be encouraged to participate in some way in the child's daily life, by preparing tea, for example, or shopping for clothes or putting a young child to bed.

Foster care

- 8.19 Foster parents can play an invaluable role in encouraging both successful contact and reunification. The extent to which they will be able to do this, in practice, depends on the recruitment, training and support which are available to them. There must always be a clear understanding with the foster parents from the outset about the child's continuing relationship with his parents and other family members; about proposals for and the purpose of contact; and about arrangements for review of the plan for the child including contact.
- 8.20 Visiting a child in a foster home can be a source of severe stress for all concerned, especially where there has been insufficient preparation. Foster parents will need preparation and continuing support to help them cope with difficulties. Parents also need help to cope with the stress of seeing their child in someone else's home, living as part of someone else's family. Usually the parents will have been involved in discussions between the foster parents and social worker about the plan for the child's placement. The social worker should, wherever possible, bring the parents to meet the foster parent and discuss the needs of the child before the placement is.



made. Parents should never be left to make their own way to a placement for the first time and to introduce themselves to a foster parent. A social worker should always accompany the parents to help with introductions and the discussion of practical aspects of the contact arrangements and the child's care as soon as possible after placement if not before. Sometimes visits to the foster home can be so stressful for one or more of the parties that the tensions cannot be quickly resolved. If the placement is nonetheless considered to be in the child's best interest, an alternative venue for meetings may be better, at least for the time being.

Residential care

- 8.21 Residential social workers also need training and preparation to make a positive contribution to the success of contact arrangements and to deal with tensions and difficulties which can arise. The potential influence of the establishment's regime should not be overlooked, in particular for children who have been placed in secure accommodation. In every establishment care is needed to ensure that the importance of the contact arrangements is recognised, that the internal organisation and timetable do not make visiting difficult and that arrangements for visiting are sufficiently flexible.
- 8.22 Regulations preclude the use of sanctions which could affect agreed arrangements for contact between the child and his parents or other relatives as a form of control of the child. **Most detailed guidance on specific issues in respect of residential placements will be found in Volume 4: Residential Care.**

Travelling arrangements and expenses

- 8.23 Parents and others having contact may need advice and help with travelling arrangements. Trusts have power under Article 30 to help with the cost of visiting children who are being looked after where there would otherwise be undue financial hardship. The power is not limited to assistance with travelling expenses, but can be used to meet all reasonable costs associated with visiting. Parents may also



need advice about benefits which may be payable during a child's extended visits home.

The child's wishes

- 8.24 A Trust has a duty to give due consideration to the child's wishes and feelings having regard to his understanding in relation to decision-making by the Trust (Article 26(2)(a)). Generally children want to see their parents, other members of their family and family friends. However, sometimes children are unwilling to see some or all of their family or have ambivalent feelings about contact. The social worker, with the help of the carers and any other adults in whom the child may have confided, must attempt to understand the source of these feelings. They may arise from factors which can be changed or which the child can be helped to understand. The social worker and carers should also make real efforts to help the child to understand what is likely to be of greatest benefit to him for the short-and long-term.
- 8.25 Where the difficulties cannot be resolved the Trust may conclude that a child's reasons for not wanting contact are valid. A child should not be forced to see a parent or other person against his will. In such a case the Trust will need to obtain legal advice. A child in care has a right to make an application to the court to authorise the Trust to refuse to allow contact between the child and a named person (Article 53(4)). It may be that the Trust will decide that it is in the child's best to initiate such proceedings if the child so wishes. The child's feelings may change as he develops and in the future he may be more ready to see his parents. The fact that the child or the Trust has obtained an order ending contact does not preclude the need to reconsider issues of contact.

Restrictions of contact with children in care

- 8.26 Planning will generally be based on the assumption that contact will be beneficial to the child unless there are clear indications to the contrary. There are sometimes reasons why, to safeguard the



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child's welfare, contact must be supervised, restricted or suspended. A child may be committed to care in circumstances which call for a decision to refuse contact from the beginning. Where there are special circumstances which mean that no contact arrangements – including short-term arrangements or supervised arrangements – can be offered to a parent while a decision about contact is under consideration, Trusts must bear in mind Article 53(1) and any order under Article 53(3). Article 53(6) provides for a Trust to refuse to allow contact that would otherwise be required under Article 53(1) or by an Article 53 order if:

- (a) it is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare; and
- (b) the refusal –
 - (i) is decided upon as a matter of urgency; and
 - (ii) does not last for more than seven days.

8.27 Regulation 2 of the Contact with Children Regulations requires a Trust which has decided to refuse contact under Article 53(6) to notify in writing as soon as a decision to refuse contact has been made:

- (a) the child, if he is of sufficient understanding;
- (b) the child's parents;
- (c) any guardian of his;
- (d) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the order was made;
- (e) where immediately before the care order was made, a person had care of the child by virtue of an order made in the



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exercise of the High Court's inherent jurisdiction with respect to children, that person; and

- (f) any other person whose wishes and feelings the Trust considers to be relevant.

It will be important to inform the child in a manner appropriate to his understanding and to explain the reasons for the action.

8.28 The notification should contain as much of the information referred to in the Schedule to the regulations as the Trust decides is necessary. The information referred to in the Schedule includes:

- Trust's decision;
- date of the decision;
- reasons for the decision;
- duration (if applicable);
- remedies in case of dissatisfaction.

8.29 Trusts must have a clear understanding of the statutory provision promoting parental contact with children in care (Article 53(1)). Where a decision is reached that the child's welfare would not be promoted by such contact, Trusts should obtain legal advice in relation to invoking the provisions of Article 53. Prior to the commencement of the Children Order, Trusts should identify those children in care whose protection and welfare would necessitate an application to the courts to provide a legal basis for continuing to restrict contact (Article 53(4)).

8.30 Trusts should bear in mind that the Children Order emphasises that there should be no avoidable delay in decisions relating to children (Articles 3(2) and 51). A child's experience of the passage of time varies according to age and general stage of development. Even



temporary breaks in contact can have especially damaging effects on the relationship between parents and very young children. Older children are more likely to benefit from help from the social worker or their carers in understanding the reasons for any necessary limitation or disruption of contact. These considerations apply equally whether decisions are being made when a child begins to be looked after or after he has been in care for a lengthy period. Whatever the decisions made about contact at any stage in a Trust's involvement with a child, it will be necessary to review the decisions in the light of current circumstances at each review.

Departure from terms of court order on contact under Article 53

8.31 Regulation 3 of the Contact with Children Regulations provides for a Trust to depart from the terms of any order for contact under Article 53. The circumstances in which this may be done are as follows:

- there is agreement between the Trust and the person in relation to whom the order is made;
- the child, if of sufficient understanding, also agrees;
- written notification of the agreement is provided within seven days to all the persons listed in regulation 2. This notification should be on a need to know basis.

This provision allows for flexibility and partnership in contact arrangements, obviating the need to go back to the court when all concerned agree a new arrangement.

Variation or suspension of contact arrangements not governed by an Article 53 order

8.32 When a Trust decides to vary or suspend an arrangement for contact between one person and the child in care with a view to affording another person contact with that child, it is required to notify those persons specified in regulation 2, of the Contact with Children Regulations. This requirement is set out in regulation 4 which states



that the notification should be given as soon as the decision to vary or suspend contact is made. The information provided in the notification should be on a need to know basis.

Communicating decisions about contact

- 8.33 Subject to what is said above, all decisions about contact should be explained to parents and discussed with them. The Trust should also confirm in writing to the parents all decisions and agreements about contact arrangements and any changes to the arrangements and the outcome of all formal and informal reviews of contact. Where limitations or control on contact have been imposed, these should be clearly stated. Similarly any postponement of contact should be confirmed in writing together with the reasons. Unless the child is subject to a court order, limitations, controls and postponements of contact should be agreed by all those involved.
- 8.34 Simple but informative leaflets about care and the law can be helpful, especially when a child begins to be looked after whether on a voluntary basis or by order of a court. They can help parents to understand their position and that of their child in relation to the Trust and can reassure them about their continuing place in their child's life. Trusts may prefer to design their own leaflets or to use publications available from other agencies and organisations. Leaflets should be couched in terms which are simple and clearly understood, avoiding professional terminology and jargon. Where appropriate, the leaflets should be produced in languages other than English where there is an identified local need. Information should also be in a format accessible to people with communication difficulties. Leaflets should never be used in place of personal letters confirming decisions and agreements about the individual child.
- 8.35 It is important that there should be clear and full communication and understanding of all contact decisions and arrangements among all those who are involved with the child's care, including foster parents and officers in charge of residential homes. Where children are accommodated by other agencies, there should be effective liaison



and clear agreements with the agency about all matters relating to contact.

Disagreement with parents

- 8.36 Trusts should ensure that they have clear arrangements to inform parents and others about how to pursue complaints about contact and ask for decisions to be reviewed. They should also ensure that the representations procedure recognises the need to accept complaints from people, other than parents, who have contact with children who are being looked after.
- 8.37 Arrangements should be made for parents to discuss their anxieties and dissatisfactions with senior officers if they feel they have reached an impasse with their social worker. Those arrangements should not be used to prevent or hinder use of the representations procedure required by the Children Order. Parents and, where appropriate according to the child's understanding, the child should be informed of these procedures (see guidance in Chapter 11 on the operation of the representations procedure). When a disagreement persists, parents of a child subject to a care order should be advised to seek a legal opinion on the most appropriate action open to them.

Reviewing contact

- 8.38 Contact arrangements should be kept under review, and not necessarily just as part of reviews. Contact should be monitored to check whether arrangements are working as intended and to identify any problems which have arisen and any changes which are needed: whether, for example, the arrangements are unnecessarily restrictive. Difficulties should be discussed openly with the parents and with the child's carers so that solutions can be explored and help given.
- 8.39 Some children will be cared for by other agencies, for example, in voluntary homes or special schools. Wherever the child is placed, the statutory responsibility for his welfare lies with the Trust. It should continue, in co-operation with any other agency which is



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involved, to keep under review the child's contacts with his family and the progress of contact arrangements.

- 8.40 When an order for contact is made under Article 53 the Trust will need to review the plan for the child. Contact should continue to be monitored. The Trust will need to consider whether it would be appropriate to apply to the court for variation of the order, including variation of any of the conditions to the order.

Record keeping

- 8.41 Full and clear records are essential to the effective monitoring of contact. They will provide a basis for a clear understanding, when social workers or carers change, of the decisions about contact which have been made and the reasons for them. Records about contact should form part of the child's case record required by the Arrangements for Placement of Children



CHAPTER 9: INDEPENDENT VISITORS

Duty to appoint an independent visitor

- 9.1 Article 31(1) of the Children Order places a duty on a Trust to appoint an independent visitor in respect of any child it is looking after if it believes that it would be in a child's best interest and certain conditions are satisfied. The need for such an appointment arises where communication between the child and his parents or a person who is not a parent but who has parental responsibility has been infrequent, or where he has not visited or been visited by his parents or a person who is not a parent but who has parental responsibility during the preceding twelve months. Throughout the guidance the child is referred to as he/him and the independent visitor as she/her for convenience to distinguish the two.
- 9.2 The Children Order requires the appointment of an independent visitor in appropriate cases in respect of any child looked after by a Trust. A child is being looked after by a Trust if he is the subject of a care order or if he is provided with accommodation by a Trust (Article 25(1)).
- 9.3 The provisions do not extend to children accommodated in a residential care home, nursing home or private hospital unless the child is being looked after by a Trust which has placed the child (who may perhaps be disabled) in any of the above type of facility under its general accommodation and maintenance duties (Article 27(2)).

Definition of independent visitor

- 9.4 Article 31(7) empowers the Department of Health and Social Services to make regulations as to the circumstances in which a person appointed as a visitor is to be regarded as independent of the Trust appointing her.
- 9.5 The Definition of Independent Visitors (Children) Regulations provide that a person is not to be regarded as independent if she is a



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member of the Trust or of its committees or sub-committees or is an officer of the Trust or is the spouse of any of these. Additionally where the child is being accommodated by an organisation other than the Trust, eg in a voluntary or privately run children's home, a person who is a member, a patron or trustee of the organisation, or who is employed by the organisation whether paid or not, or who is the spouse of any such person is not to be regarded as independent.

- 9.6 Trusts should consider in this connection whether it would be appropriate to treat people who are in a stable cohabitation relationship as spouses.

Identification of children for whom an independent visitor should be appointed

- 9.7 Regulation 5 of the Review of Children's Cases Regulations places a duty on a Trust to consider at reviews whether an independent visitor should be appointed in respect of a child looked after by it. It is likely to be at a review that consideration is first given to the appointment of an independent visitor. In some cases the question may arise when the Trust first draws up a plan for a child whom it is looking after (regulation 4 of the Arrangements for Placement of Children (General) Regulations).
- 9.8 A Trust may be required to appoint an independent visitor where:
- it appears to the Trust in relation to any child it is looking after that communication between the child and a parent of his, or any person who is not a parent of his but who has parental responsibility for him, has been infrequent; or
 - any child whom it is looking after has not visited or been visited by (or lived with) a parent of his, or any person who is not a parent of his but who has parental responsibility for him, during the preceding twelve months (Article 31(1)).



- 9.9 If either of these threshold criteria is satisfied, the Trust must assess whether it would be in the child's best interests for an independent visitor to be appointed (Article 31(1)). In reaching its decision a Trust has to have regard to the general duty in relation to children it is looking after (Article 26(2)) to ascertain as far as is reasonably practicable the wishes and feelings of a range of persons, including the child. The wishes of the child are of particular importance. The Trust must also take into consideration the child's religious persuasion, racial origin and cultural and linguistic background (Article 26(3)). A Trust may not appoint an independent visitor for a child if the child objects to it and the Trust is satisfied he has sufficient understanding to make an informed decision.
- 9.10 In certain circumstances, although the criteria for appointing an independent visitor exist, the Trust may decide that such an appointment is unnecessary and therefore not in the child's best interests. For example, a child may be well settled in a permanent placement with foster parents and already have sufficient contacts, friends and – if necessary – opportunities to seek advice. In some cases members of his family other than his parents may be in regular contact making the appointment of an independent visitor unnecessary.

Selection of an independent visitor for a particular child

- 9.11 In matching a particular visitor with a particular child the Trust will need to have regard to the wishes of the child, his parents or those with parental responsibility and any other person whose wishes and feelings are relevant. If the child objects to the Trust's choice it may not make the appointment.
- 9.12 The child's social worker will have been involved in the process whereby the Trust has decided that an independent visitor was necessary and the social worker's advice in the matching of a potential visitor to the child is crucial.



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- 9.13 The personal qualities required of an independent visitor will include an ability to relate to children generally and more specifically in a manner appropriate to the age and circumstances of the child for whom she is to be appointed.
- 9.14 A child's views about whom he would like as an independent visitor and the reasons why will vary greatly. The Trust will need to take into account the child's wishes and feelings and these may also include whether the independent visitor should share his religious persuasion, racial origin, cultural and linguistic background. Where it has not proved possible to make a placement which entirely reflects the child's religious persuasion or racial and cultural background the independent visitor could be an important link for the child in this respect.
- 9.15 There will be a need for introductory meetings to provide an opportunity for mutual assessment and to enable the child to decide whether he wishes the appointment to be made. If the child does not, the Trust should consider whether the appointment of another person might be possible and appropriate.
- 9.16 In a very limited number of cases there may be a relative who would be appropriate to fulfil the role of independent visitor and this arrangement might be the child's preferred option. The Trust will need to distinguish between the small minority of cases where the designation of a relative or friend as the child's visitor is appropriate and the more common situation where the child properly has ongoing contact with relatives and friends. In the latter situation a Trust should encourage such contacts and may pay expenses without the necessity of changing the status to that of independent visitor (Articles 29 and 30).

Recruitment

- 9.17 A Trust will need to devise a strategy for the recruitment of appropriate persons to act as independent visitors. It may be helpful to consult with community groups, voluntary bodies and other



organisations with an interest in children. Imaginative and energetic recruiting measures may have to be devised to ensure that the needs of the child can be met in terms of his religious persuasion, racial origin, cultural and linguistic background. Particular requirements may also arise in the case of children with a disability. It may be acceptable in some circumstances for an independent visitor to fulfil that role for more than one child.

- 9.18 For a child in his early teens and likely to be looked after until he is independent, the relationship with the independent visitor might last four or five years. A variety of factors will determine the length of the relationship, but since it has the potential to be long-term, there are clearly strong arguments for recruiting as independent visitors persons who are able to make a long-term commitment to the role. However, recruitment procedures should not preclude those potential independent visitors who, although able only to offer their services for shorter periods, may have valuable qualities and could well be needed and play a valuable role.
- 9.19 Trusts may wish to consider recruiting a pool of persons to act as independent visitors. This should allow the selection of an individual visitor for a particular child to take place more quickly than would be possible if the complete recruitment and appointment process had to be undertaken from the beginning. However, even if there is a pool of visitors with a variety of backgrounds and ages, there may still be situations where the Trust and the child identify specific requirements which cannot be met by those visitors who have already been recruited. Moreover, there are disadvantages to the pool approach. Individual independent visitors may become frustrated and disillusioned by over-long waiting periods between appointment to the pool and introductions to a child.

Training and support

- 9.20 The recruitment, assessment and support of independent visitors requires the deployment of administrative and professional skills which have similarities to those needed to assess foster and adoptive



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parents. For this reason Trusts may wish to consider locating the responsibility for the independent visitor service with such a specialist team.

- 9.21 The effectiveness of the independent visitor will depend principally on her personal qualities, ability to communicate with children, commitment and interest in children's welfare. These are pre-requisites. However, such qualities will be enhanced by the provision of an induction programme which will need to cover not only the formal aspects of her role and functions but also the duties and procedures of the Trust and the relevant aspects of the legislation. Some familiarity with the principles and practice of inter-agency working in child abuse matters would be helpful. It is not intended that independent visitors should be required to undertake intensive training beyond the induction phase but there may be occasions when, because of the circumstances of an individual child, the independent visitor would benefit from some additional training.
- 9.22 Induction training will also allow the opportunity to set expectations in respect of access to file information concerning the child and the extent to which the independent visitor herself keeps any record, over and above that required to claim expenses. On appointment of the independent visitor, the Trust will have to decide the amount of information to be given to her in the circumstances of the child's current situation and history. The general approach is likely to be based on "the need to know" principle but there will always be some situations where it would be judged preferable to give the independent visitor the maximum information possible. The child himself should be involved in deciding what information is made available. It should be noted that the independent visitor has no formal right to inspect the child's case files.
- 9.23 In most situations it will neither be necessary nor appropriate for the independent visitor to keep detailed records of her discussions with the child. However, she may well wish to keep a note as an aide memoire; for example, the names of relatives the child mentions, or birthdays. The independent visitor may also feel it appropriate to note the decision of meetings such as reviews she has attended with



the Trust. All records should be kept in such a manner as would protect the child's identity. Induction training should stress the importance of ensuring that such confidential information is safely stored, in the context of wider discussion about general confidentiality issues. There should be a clear understanding that such records would be destroyed on termination of the appointment.

- 9.24 The independent visitor and the Trust should discuss at an early stage how to deal with any anxieties which the child's carers might feel about the appointment of an independent visitor. Trusts should arrange for the preparation of carers and provide any support or explanations to them and the child about the independent visitor's functions. Explanation should not be left to the independent visitor. She will of course require to be sensitive in all her dealings with the child and his carers particularly where the child is in a family placement and she is visiting the family's home.
- 9.25 Independent visitors do not require supervision or day-to-day management – indeed such an approach might seriously prejudice their independence. However, they will require support. Many of the children whom they seek to befriend will have had a history of breakdowns of relationships. In these cases the independent visitor may have to overcome a barrier of cynicism and distrust before she can forge and maintain a good relationship with the child. She may welcome opportunities to discuss in a confidential setting individual situations or wider dilemmas perhaps being faced by a number of independent visitors. The task of the independent visitor may at times be stressful. Trusts should recognise this and, in considering the overall organisation of the independent visitor service, should consider how best to provide appropriate support.

Appointment

- 9.26 Trusts will need to take steps to avoid the risk that unsuitable persons who pose a serious threat to children's safety are inadvertently recruited. Appointment procedures need to be rigorous and formal. Applicants will need to submit detailed background information and provide the names of two personal referees.



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A check should be made of the DHSS Pre-employment Consultancy Service (PECS) Register. Attention should be drawn to the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 as amended by the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 1987, which allows convictions which are spent under the terms of the 1979 Order to be disclosed by the police and to be taken into account in deciding whether to appoint the applicant. The applicant therefore may properly be requested to list all convictions and cautions and must give her permission in writing for a police check to be carried out. Where appointments are made the independent visitor should be provided with a letter of authority and arrangements should also be made for the provision of authenticated photographs for identification purposes. These should be withdrawn when the appointment is terminated.

Review and termination of appointment

- 9.27 The Trust will need to consider at each review under the Review of Children's Cases Regulations the appropriateness of the continuing appointment of the particular independent visitor and indeed of any independent visitor. The child's views will be highly relevant. The Trust will need to consider the most appropriate way of ascertaining the child's wishes about the continuation of an appointment which has been made. The older child should be given the opportunity from time to time to express his views about the value of the appointment. If he objects to it continuing and the Trust is satisfied that he has sufficient understanding to make an informed decision, the Trust must terminate the independent visitor's appointment in respect of that particular child (Article 31(6)). The Trust should then consider whether it would be appropriate to appoint another independent visitor.
- 9.28 The independent visitor ceases to be appointed if she gives notice in writing to the Trust who appointed her that she resigns the appointment or the Trust gives her notice in writing that it has terminated it (Article 31(3)). Such a termination is in respect of an



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independent visitor's appointment to an individual child but may also signal that the Trust does not wish the independent visitor to be appointed again for any child. However, where an independent visitor is acting in respect of a number of children, termination of appointment in respect of one of them does not terminate appointment in respect of the others. Each case should be considered separately.

- 9.29 The Trust must act with the greatest care to avoid any suggestion that the termination of an independent' visitor's appointment is a consequence of that visitor acting with appropriate independence and, for example, challenging the validity of the Trust's care planning or standards of service in respect of a particular child.
- 9.30 Where the independent visitor disagrees with the Trust's action regarding termination she may wish to make a formal representation and complaint (see the Representations Procedure (Children) Regulations). The Trust has discretion to decide whether the independent visitor is a person with sufficient interest in the child's welfare to warrant representations under Article 45(3)(e). The situation may also arise where, notwithstanding the Trust's wish to terminate the appointment, the child wishes it to continue on a friendship basis. The Trust, in considering the child's wishes, may conclude on balance that acceptance of such a position is acceptable provided the child's welfare is not endangered.
- 9.31 There may be exceptional circumstances where the behaviour of the independent visitor, whilst falling short of criminal activity, is nevertheless totally inappropriate and constitutes a serious risk to the child's welfare. Failure to terminate the independent visitor's appointment would amount to a breach of the Trust's duty to safeguard and promote the welfare of the child. In these circumstances the Trust should review and other current and all previous appointments of that person as an independent visitor and carry out such investigations as are necessary. The Trust should notify that person's particulars to the DHSS Pre-employment Consultancy Service. As the child may well need particular help and



support, consideration will need to be given to implementing child protection procedures.

The role and function of the independent visitor

- 9.32 The functions of the independent visitor comprise visiting, advising and befriending the child. These are specific duties set out in Article 31(2). It is recognised that in some instances independent visitors may have qualities, skills, experience and qualifications which in other settings entitle them to undertake work in a professional capacity with children. In general, however, the role is envisaged as being undertaken by volunteers from a lay perspective. This section of the guidance discusses further the role of the independent visitor and also a range of specific functions which, depending on the individual child and his circumstances, may have greater or lesser prominence.
- 9.33 How the independent visitor pursues her role in terms of a plan and timetable of more specific activities will vary depending on the circumstances. She will need to form her own judgements about how best to proceed. Taking into account the Trust's view of the child's needs, the child's wishes and her developing relationship with him, the independent visitor must reach her own conclusions as to how, in this particular situation, her activities might best be focused. Whatever she does should be directed at contributing to the welfare of the child and this includes promoting the child's developmental, social, emotional, educational, religious and cultural needs. This may require her to encourage the child to exercise his rights and to participate in decisions which will affect him. It will also include (unless she feels that there is clear evidence to act differently) supporting the care plan for the child and his carers, such as foster parents or residential social workers who have day-to-day care for the child.
- 9.34 The independent visitor's role and functions can also be described in terms of what she is not intended to do. She is not to be anything other than child-focused, however sympathetic she may be to other points



of view. Her functions are not that of a substitute parent or carer but she should aim, as far as possible, to complement their activities. In bringing the lay perspective, she must not allow her personal prejudices to determine her actions. She is not expected to accept unquestioningly what those responsible for the child tell her is in his interests, but should remain open-minded.

Visiting

- 9.35 Face-to-face contact with the child is an important aspect of the independent visitor's role. The frequency and length of such visits will depend on the circumstances of each situation and may change in the course of the relationship between the child and independent visitor. A child may have often experienced the disappointment of the cancellation of an arranged visit from a parent or relative and the independent visitor will need to be particularly sensitive and reliable in this regard. The independent visitor will need to make arrangements in advance about visiting with the child's carers as well as the child himself.
- 9.36 As the relationship develops it may well be appropriate for the independent visitor and child to go out somewhere. The type of outing will depend on the child's interests and the range of facilities in the area. The independent visitor will need to be sensitive to avoid being regarded and treated as the person who simply provides "treats". It is not intend that the independent visitor should provide compensating leisure experience which ought more appropriately to be the responsibility of the child's carers. However, such outings can afford privacy, ease communication and develop the relationship between independent visitor and child through a shared activity. There may be activities which the carers cannot provide, perhaps for example connected to the religious or cultural background of the child. The fact of the child being of a different religion or culture from that of the residential social workers or foster parents may not only influence the selection of an independent visitor but also her choice of the type of activity in which she involves the child. She may be able to promote contacts in the area relevant to the child's cultural development.



9.37 In exceptional circumstances it may be appropriate if the relationship with the child has developed, for the independent visitor to invite the child to her own home. Again, such a step must be seen within the overall care plans for the child and agreed with the Trust and carers with due sensitivity. This is not an area suited to spontaneous gestures. There are obvious dangers that the child's hopes for the future may be unrealistically aroused and carefully laid plans distorted. However, there is also a general principle that children in care should experience normal activities and they will know that other children in their class at school, for example, will often visit friends at their homes.

9.38 Similar arguments will apply, again in exceptional circumstances, where the independent visitor, child and Trust agree that an overnight stay or short holiday (perhaps with the independent visitor's own family, if she has one) would be appropriate. Although the independent visitor has been the subject of formal checks on appointment, the Trust will have to make further checks before such an arrangement is agreed.

Advising

9.39 There will be a range of issues about which an independent visitor might offer the child advice. Some of these may be quite straightforward such as where to find or who to ask for particular information. The advising role becomes more complex where it overlaps with counselling and the responsibilities of other professionals involved with the child. It is not intended that the independent visitor should engage the child in intensive counselling. Independent visitors need to recognise that it is not their role to counsel or advise the child in complex situations. They should rather encourage and support the child to seek and accept help from his social worker in the first instance.

Befriending

9.40 Whoever is appointed will need to try to establish with the child a



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sense of trust in the relationship which must form one of the basic elements in the befriending role. The independent visitor must also be prepared for the process of establishing trust to be a slow one and for there to be setbacks. For some of these children earlier relationships with adults have ended in disappointment and disillusionment. They may be reluctant or find it very difficult to establish rapport with adults and to place any trust in them.

Meetings with the Trust or other agencies

- 9.41 The involvement of the independent visitor in meetings or consultation processes is in some circumstances a legal requirement and in others is on a discretionary basis.
- 9.42 The mandatory involvement is in respect of a child who has an independent visitor and who is in secure accommodation. Where the Trust intends to make an application to the court to keep a child in secure accommodation, the Trust has to inform a range of persons, including the child's independent visitor if one has been appointed, of the intention (regulation 9 of the Children (Secure Accommodation) Regulations). If the placement of the child in secure accommodation continues, regulations 10 and 11 require review to take place and the views of a range of persons to be sought unless this is not reasonably practicable. The independent visitor is included here and may be able to give her views in person, in writing, or both. The independent visitor is also entitled to know the outcome of the review (regulation 11(3)).
- 9.43 The independent visitor will have the opportunity to provide contributions to the review of a child's case either in writing or at meetings where the child's case is to be discussed and to which she has been invited because she has something relevant to contribute or because the child has requested that she attend with him. The independent visitor will have to take care to distinguish between repeating what the child has asked her to say on his behalf, interpreting such information and offering her own view as to what is best for the child.



- 9.44 The child may wish the independent visitor to speak as a friend on his behalf in order to help resolve a particular issue or difficulty. This may involve the independent visitor's attendance at a meeting; perhaps a review meeting, or an oral hearing of a complaint being made under the representations procedure. Independent visitors do not constitute the independent element of the representations procedure, but the child might wish the independent visitor to accompany him in the capacity of a friend to an oral hearing convened under the representations procedure (see Chapter 11).
- 9.45 The Children Order also offers the opportunity for an independent visitor to contribute views outside the formal review arrangements. The child may be involved in family proceedings where the court has requested a welfare report (Article 4). Another possibility in relation to court proceedings is that a guardian *ad litem* has been appointed (Article 60). The views of the independent visitor about the child may well be of relevance to such proceedings and the independent visitor may need to take the initiative in seeking out the relevant person in order to convey her wishes. She will wish to consult with the child before taking such action.

Advocacy

- 9.46 In some situations, the position of the child may be an unhappy one. For example, the child may be dissatisfied with the current arrangements for his care or the absence of progress in achieving a plan for the future. He may disclose that he is being abused by his carers. In such situations the child has an urgent need for skilled advocacy. This is not a role the independent visitor is expected to play.
- 9.47 Instead, the independent visitor must be able to recognise the needs of the child in serious situations and with his agreement draw his concerns to the attention of the child's social worker or if necessary, a more senior officer in the Trust. In certain cases, it may be appropriate to refer the matter to one of the voluntary organisations which specialises in advocacy.



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Expenses

- 9.48 The independent visitor is entitled to recover reasonable expenses incurred in relation to her functions in visiting, advising and befriending the child from the Trust which appointed her (Article 31(2)(b)). The term “expenses” covers travel and out of pocket payments but is not meant to equate to a regular payment or salary. Whether anticipated expenditure may form a pattern or be a one-off amount, the Trust and independent visitor will need to reach some prior agreement about normal spending limits and authorisation for additional expenditure. The independent visitor will also need to keep records for the purpose of submitting expenses claims.

When a child ceases to be looked after

- 9.49 The need for an independent visitor to continue her relationship with a young person once he ceases to be looked after by the Trust, where the young person seeks this, should not be overlooked. Such continuing arrangements would be on an informal basis but the Trust should consider whether it would be appropriate to continue to meet the cost of reasonable expenses associated with this continued role until such time as its own aftercare responsibilities expire.



CHAPTER 10: AFTERCARE, ADVICE AND ASSISTANCE

- 10.1 This chapter describes the statutory framework in Article 35 of the Children Order dealing with the duty of a Trust to prepare a young people it is looking after for the time when they cease to be so looked after and the powers and duties of a Trust to provide aftercare, advice and assistance to such young people and certain other defined young people who were accommodated by other bodies. The guidance also deals with the preparation of young people accommodated by or on behalf of voluntary organisations (Article 76(1)(c)) and those accommodated in privately run children's homes (Article 92(1)(c)).
- 10.2 The guidance describes young people as being "cared for" or "leaving care". This is intended to refer to the concept of caring rather than the child's legal status; it encompasses all the young people referred to in the previous paragraph and it does so whether they are being cared for under voluntary arrangements or on a compulsory basis. Young people who are privately fostered are covered by the arrangements.
- 10.3 The successful re-integration of a young person with his family or other responsible person, or the establishment of the ability in the young person to become as self-supporting as possible, where this is necessary, is the culmination of a young person's experience in being cared for by a Trust, private foster parent, voluntary organisation or in a privately run children's home.
- 10.4 It is of vital importance that young people are properly prepared for this step and are given access to support afterwards. Young people coming towards this stage will do so from a wide variety of backgrounds and in a wide variety of circumstances, at various ages and with various levels of support available to them from families and friends. All of this implies the need for a very flexible service to meet such a wide range of potentially differing experiences and needs. The quality of preparation for leaving care, and of the aftercare subsequently provided, may profoundly affect the rest of a young person's life.



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- 10.5 Whether or not the Trust has parental responsibility (under a care order) it adopts, in effect, part of the role of the parent of a young person it is looking after and may provide subsequent advice and assistance. The Children Order provides powers and, in certain cases, places duties, on each Trust to provide this help until a young person reaches the age of 21. (In certain cases, help given to meet expenses concerned with education or training may continue beyond a young person's 21st birthday – see Article 36(2) and (3)).
- 10.6 In acting in this way, a Trust will wish to work in partnership with the young person's parents if possible. (It may not, of course, always be possible; for example, they may have died, or they may have rejected the young person or have been rejected by him). Similarly, if a young person has been fostered, the Trust will also need to work in partnership with the foster parents.
- 10.7 In discharging its responsibilities, each Trust will need to liaise with many other agencies, for example, with the Northern Ireland Housing Executive and education and library boards, careers advice and social security offices.
- 10.8 The Children Order recognises the need for inter-agency liaison, and Article 46 gives a Trust the right to request help in the discharge of its functions under Part IV of the Order from any other Trust, any education and library board, the Northern Ireland Housing Executive and any other person so directed by the Department. Any such request is bound to be complied with if it is compatible with the other agency's own statutory or other duties and obligations and does not unduly prejudice the discharge of any of its functions. With this reservation, therefore, any such request must be complied with as far as possible.

The legal framework

- 10.9 The powers and duties of Trusts to prepare young people they are looking after for the time when they cease to be so looked after, and the provision of aftercare advice and assistance, are described in



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Articles 35 and 36. These are more clearly defined and comprehensive than those formerly covered in sections 120, 122 and 123 of the Children and Young Persons Act (Northern Ireland) 1968 and the duty to prepare young people for this change in their circumstances is new. A comparable duty to prepare young people for the time when they are no longer cared for is also placed on voluntary organisations (Article 76(1)(c)) and those carrying on privately run children's homes (Article 92 (1)(c)) All of these powers and duties need to be carried out in the light of the general child care principles on which the Children Order is based.

Articles 35 and 36 – Trusts powers and duties

10.10 Broadly speaking, the powers and duties of Trusts in Article 35 cover all young people leaving a variety of forms of care when aged 16 or over and they continue until each young person reaches the age of 21.

Article 35(1): If a young person of any age is being looked after by a Trust it is the duty of the Trust to advise, assist and befriend him so as to promote his welfare when he ceases to be looked after by it. Although this has always been a matter of good practice, it is now a duty.

Article 35(2): A Trust has responsibilities to advise and befriend any young person who "qualifies for advice and assistance". This applies to any young person aged under 21 who ceases, after reaching the age of 16, to be:

- (a) looked after by a Trust;
- (b) accommodated by or on behalf of a voluntary organisation;
- (c) accommodated in a privately run children's home;
- (d) accommodated by any education and library board, or in any residential care home, nursing home, hospital or prescribed



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accommodation (provided that he was accommodated for at least three months), or

- (e) privately fostered.

Article 35(3): Article 35(2)(d) applies even if the three month period began before the young person reached age of 16.

These responsibilities may be a duty or a power, according to the form of care that the young person has left (see Article 35(4) and (5) below).

Article 35(4) and (5): Where a Trust knows that a young person described in Article 35(2) is in its area, it has:

- (a) a **duty** to advise and befriend him if he was formerly looked after by a Trust or accommodated by or on behalf of a voluntary organisation; and
- (b) a **power** to advise and befriend him in all other cases provided that:
- the young person has asked for such help; and
 - the Trust considers that he needs to be advised and befriended; and
 - the person who formerly looked after him (if not the Trust) does not have the necessary facilities for advising and befriending him.

Articles 35(6) and 36(1): If a Trust has a duty or is empowered to advise and befriend someone, it may also give him assistance. This assistance may be in kind or, in exceptional circumstances, in cash.

Article 36(2): A Trust also has a power to give assistance to anyone who “qualifies for advice and assistance” and who was formerly



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looked after by a Trust (Article 35 (2)(a)) in the following ways:

- by contributing to expenses incurred by him in living near the place where he is, or will be, employed, or seeking employment, or in receipt of education or training; or
- by making a grant to enable him to meet expenses connected with his education or training.

Article 36(3): If a Trust is making a contribution or grant under Article 36(2) to meet expenses connected with education or training, it may continue to do so until the end of the course, even if the young person reaches the age of 21 before the end of the course. It may also disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.

Article 36(4): Assistance given by a Trust under Article 35 may be given unconditionally or may be repayable in part or in whole. However, no one shall be liable to repay any assistance at any time when in receipt of income support, family credit, disability working allowance or an income-based jobseeker's allowance. Before giving any assistance or imposing any conditions about repayment, the Trust shall take into account the means of the young person concerned and of each of his parents. (These conditions do not apply to assistance given under Article 36(2), which is always unconditional and not repayable).

Article 37 (1): Every Trust shall establish a procedure for considering any representations (including any complaint) made to it by a person qualifying for advice and assistance about the discharge of the Trust's functions under Part IV of the Children Order in relation to him. This will (inter alia) allow young people to complain if they consider that the Trust has not given them adequate preparation for leaving care, or adequate aftercare. It will enable them to make a complaint even if they have left the care of the Trust or another agency. (The general complaints procedure specified at Article 45(3))



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only applies to a young person who is “a child”, ie under 18 years of age.

Article 37(3): If a Trust has been advising and befriending a young person under Article 35 and becomes aware that he proposes to live, or does live, in the area of another Trust, it must inform the other Trust.

Article 37(4): If a young person ceases, after reaching the age of 16, to be accommodated:

- (a) by or on behalf of a voluntary organisation or in a privately run children’s home; or
- (b) as mentioned in Article 35(2)(d);

then the organisation or persons providing the accommodation must inform the Trust in whose area the person proposes to live.

10.11 Transitional Agreements: These are set out in paragraph 17 of Schedule 8 to the Children Order. Under these arrangements, a Trust’s powers and duties under Articles 35 and 36 extend to any young person who:

- (a) left voluntary or compulsory care or ceased to be subject to a training school order before the Children Order came into force (see paragraphs 11(1), 15(1) and 30(1) of Schedule 8 to the Children Order);
- (b) was at least 16 when he left care, and
- (c) is not yet 21.

These transitional arrangements will be in force for five years, ie until anyone qualifying for advice and assistance under these arrangements has reached his 21st birthday.



Duties of voluntary organisations and privately run children's homes

- 10.12 Article 76(1)(c) stipulates that where a young person is accommodated by or on behalf of a voluntary organisation, it is the duty of that organisation to prepare the young person for the time when he ceases to be so accommodated. The voluntary organisation does not have a statutory duty to provide aftercare for the young person once he has ceased to be accommodated by the organisation or on its behalf. However, it is desirable to link the provision of care with that of aftercare. As a matter of good practice, the voluntary organisation should consider the provision of appropriate aftercare services for any young person ceasing to be accommodated by it, or on its behalf, after reaching the age of 16. Trusts should therefore encourage the provision of such services by all voluntary child organisations within their area.
- 10.13 In addition, a voluntary organisation has a duty under Article 37(4) to inform the Trust if it is ceasing to accommodate a young person aged 16 or more. The Trust so informed will be the Trust in whose area the young person proposes to live after ceasing to be accommodated by the voluntary organisation.
- 10.14 The voluntary organisation will need to inform the Trust as early as possible, ie as soon as it is known on what date the young person will cease to be accommodated by the organisation or on its behalf. This will alert the Trust to the fact that it may have a responsibility to provide aftercare for the young person under Articles 35 and 36 (see Articles 35 and 36 (see Article 35(5)(b))). The voluntary organisation should also keep the young person informed at all stages, by telling him as early as possible when he is likely to cease to be accommodated by the organisation and by letting him know what provision for aftercare will be made and by which agency.

Privately run children's homes

- 10.15 Under Article 92(1)(c) similar duties to those listed above will apply to



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privately run children's homes.

Principles underlying preparation for leaving care

10.16 The principles underlying preparation for leaving care should reflect good child care practice generally, following the principles of the Children Order:

- services for young people must take account of the lengthy process of transition from childhood to adulthood, to reflect the gradual transition of a young person from dependence to independence. The support provided should be, broadly, the support that a good parent might be expected to give;
- young people should be fully involved in discussion and plans for their future. Well before a young person leaves care, a continuing care plan should be formulated with him. This should specify the type of help the young person will be receiving and from whom. This plan should incorporate contingency arrangements in the event of a breakdown in the young person's living arrangements after he has left care since such breakdowns in arrangements are not uncommon. Such arrangements might include, for example, the possibility of a return to a voluntary or privately run children's home or to foster care;
- parents should be invited to help formulate the plan (if they are not estranged from the young person). So, too, should foster parents if the young person is leaving a foster placement (whether Trust or private);
- preparation for leaving care should help develop a young person's capacity to make satisfactory relationships, develop his self-esteem and enable him to acquire the necessary practical skills for independent living;



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in helping young people to develop socially and culturally, carers must be prepared to take some risks and to take responsibility for doing so; to let young people take some risks, eg in attempting relationships that may not work; and to take responsibility for supporting young people through breakdowns in relationships;

- all preparation for leaving care and provision of aftercare must take account of the religious persuasion, racial origin, cultural and linguistic background and other needs of a young person (Article 26(3)(c));
- preparation for leaving care and the provision of aftercare must be planned in conjunction with all other interested agencies eg education and library boards, the Northern Ireland Housing Executive, and where appropriate, other Trusts. These agencies should be invited to contribute to a young person's continuing care plan.

Trusts' written policies on leaving care

- 10.17 Each Trust should take the above principles into account in developing leaving care and aftercare policies and in applying those policies to the needs of individual young people.
- 10.18 To help ensure this, each Trust should provide a written statement of its philosophy and practice on the preparation of young people for leaving care and the provisions of aftercare support. It is a requirement of paragraph 2(1) of Schedule 2 to the Children Order that each Trust must publish information about services provided by it under Articles 35 and 36 and take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the relevant information. The statement should be comprehensive, acknowledging the different leaving care and aftercare needs of different young people, according to their age, sex and maturity. It should take into account the special needs of certain groups of young people eg young people with a disability and those



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with a statement of special educational needs (see paragraphs 10.25 to 10.39 below), pregnant girls, girls with young babies and young people from a range of cultural, racial and linguistic backgrounds. The statement should be revised periodically by the Trust to ensure that it remains up-to-date. It is suggested that three-yearly revisions would be appropriate.

- 10.19 The statement should also cover the role of other agencies, who should be asked to provide contributions to the statement on the part they play in the preparation of young people leaving care and the provision of aftercare. They should be invited to revise their contributions to the statement when the statement itself is being revised by the Trust. The roles of other agencies are considered in more detail below.
- 10.20 The statement should be informed by the views of young people who are, or have been, cared for in those ways referred to in Articles 35 and 36 (paragraph 10.10). There should be a formal means of ensuring that the Trust continues to take their views into account, both when the statement of policy is being revised and at other times. One way of doing this might be to encourage young people who are being, or have been, cared for, to set up their own groups. Such groups would also enable these young people to meet each other and discuss matters of common interest and would help to overcome the common problem of loneliness felt by many young people who have left care. The Trust might also consider establishing a newsletter or other means of communication to inform young people who are being, or have been, cared for and to seek their views on matters such as these.
- 10.21 It would also be desirable for the statement to be informed by the views of the parents of these young people and by those of foster parents where a young person is fostered privately or by the Trust. There may be no formal mechanism for seeking these views, particularly since a Trust may have responsibility for providing aftercare for a young person whom it did not look after. However, a Trust may wish to consider obtaining a sample of views from parents



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and foster parents whenever a statement is prepared or revised.

This might be done by sending copies of the statement to the parents and foster parents of at least some of the young people looked after by the Trust itself and seeking their comments on it.

- 10.22 The statement should be drafted so as to be easily comprehensible to young people and to their parents and foster parents. The Trust will need to provide translations of the policy statement in relevant minority languages where there is an identified need. It will also need to consider how to provide the statement in versions that can be understood by young people with communication difficulties: for example a sign language video version might be particularly helpful for hearing-impaired young people whose preferred choice of communication is in sign language.
- 10.23 In addition, each Trust should provide an easy to read guide to its services for young people when they leave care. Like the policy statement, this should include a brief guide to services available from other agencies, based on information provided by those other agencies. The guide should be informed by the views of young people who are being, or have been, cared for, and their parents and foster parents. Where appropriate, the guide should be produced in languages other than English where there is an identified need. The Trust will also need to consider how to provide the guide in a form that can be understood by young people with communication problems. For instance, a large print, braille or tape version may be helpful for blind or visually-impaired young people. A sign language video of the guide may be appropriate for hearing-impaired young people, or advice and information could be provided by workers trained in the needs of, and communication with, hearing-impaired young people.
- 10.24 The guide should include the following information:
- the advice and befriending services available to young people who have left care under Article 35(2);



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- the Trust's policy and practice on making payments in cash or in kind, under Articles 35(6) and 36(1) to young people who have left care;
- the nature of the help, including financial advice, that other agencies can give in preparing young people for leaving care and supporting them when they have left care; and the ways in which young people can obtain this help.
- details of youth counselling services run by the Trust or the voluntary sector;
- the Trust's policy on giving young people access to their social services records;
- the Trust's complaints procedure, under Articles 37(1) and 45(3) in case any young person considers that he is being denied appropriate advice and assistance (for further guidance see Chapter 11 of this volume);
- the name, address and telephone number of a contact point in each of the agencies mentioned in the guide.

Young people with a disability: Particular needs

- 10.25 Young people with a disability are, for the purpose of this guidance, young people who are "blind, deaf, or dumb, or suffering from mental disorder of any kind or substantially and permanently handicapped by illness, injury or congenital deformity ..." (Article 2).
- 10.26 Such young people may well have particular needs over and above the needs of other young people who are being cared for. It is essential to ensure that these needs are met when preparing these young people for leaving care and subsequently providing aftercare. At the same time, care must be taken to ensure that these young people do not fail to achieve their full potential as a result of under-expectation on the part of those caring for them.



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- 10.27 The following paragraphs refer specifically to the responsibilities of Trusts. However, they also apply to voluntary organisations and privately run children's homes, who have a duty to prepare young people whom they are caring for, for the time when they leave care, and who may also provide aftercare for these young people.
- 10.28 Trusts should ensure that they have access to information on special resources and services necessary to meet the needs of young people with a disability who are leaving care. They will also need to liaise closely with education and library boards to ensure that the particular needs of these young people are met at all times. They will need to take any steps necessary to ensure that the views of these young people about their needs, and the ways in which they can be met, are taken into account. This may necessitate the use of skilled communicators to enable better communication to take place between young people with a disability and the various agencies.
- 10.29 Trusts will need to note, in addition, that they have a duty to assist education and library boards with the provision of services for any person who is subject to a statement of special educational needs (Article 46(5)).
- 10.30 Trusts will also need to liaise with the Northern Ireland Housing Executive over the housing needs of young people with a disability. They should ask the Housing Executive to consider the particular needs of these young people who are leaving care.
- 10.31 In discharging these responsibilities, Trusts will need to take account of their powers and duties under one legislation as set out below. These powers and duties are not, of course, limited to young people who are being looked after by a Trust. Voluntary organisations and privately run children's homes may therefore consider what help the Trust can give to young people whom they themselves are preparing for leaving care or providing with aftercare.
- 10.32 Section 2 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 lays on each Trust a duty to provide various



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welfare services to any young person living within its area if this is necessary in order to meet the needs of that young person.

- 10.33 Sections 5 and 6 of the Disabled Persons (Northern Ireland) Act 1989 are also relevant since they are designed to ensure a smooth transition from full-time education to adult life for a young person who is subject to a “statement of special educational needs”. Their effect is to require the relevant education and library board to obtain the view of the Trust as to whether such a young person is disabled. This is done at the first annual review of the statement of special educational needs, or the first reassessment of the young person’s educational needs, following his 14th birthday. If the Trust does consider that the young person is disabled it must assess his needs before he leaves full-time education in order to decide what services it has a duty to provide him with (see the relevant sections of the Disabled Persons (Northern Ireland) Act 1989 for details).
- 10.34 Trusts should, as a matter of good practice, also provide communication support for all young people who require it. This could take the form, for instance, of text telephones or interpreters.
- 10.35 When a young person is being looked after by a Trust and placed in accommodation which provides education on the premises, the Trust is required to inform the appropriate education and library board when the young person leaves the accommodation (Article 47(3)).
- 10.36 In deciding the child’s future needs, the Trust should continue to liaise with the education and library board which is responsible for providing “adequate facilities for further education” and which needs to “have regard to the requirements of young persons over compulsory school age who have learning difficulties”.
- 10.37 More generally, Trusts will wish to note that some disabilities inhibit the development of maturity and may delay the learning process and this must be taken into account when preparing a young person for leaving care and in providing aftercare.



10.38 Specific health requirements may also continue into adulthood. The transition from child to adult health services is not always easily made by a young person who may well require help and support from the Trust acting as a “good parent”.

10.39 The particular needs of young people with a disability will – as mentioned above – need to be taken into account in preparing them for leaving care and also in providing the necessary aftercare. It is important to note that the needs of young people with a disability will not suddenly and fundamentally cease when they do leave care. Liaison between the various agencies concerned with a young person’s welfare should continue after he has left care.

The nature of preparation for leaving care

10.40 There are three broad aspects to preparation for leaving care:

- enabling young people to build and maintain relationships with others;
- enabling young people to develop their self-esteem;
- teaching practical and financial skills and knowledge.

Enabling young people to build and maintain relationships with others

10.41 The capacity to form satisfying relationships and achieve inter-dependence with others is crucial to the future well-being of the young person. With such a capacity, he is much more likely to cope with the transition to adulthood and the special difficulties associated with leaving care. It is crucial, therefore, that the experience of being cared for provides both the opportunity for such personal development and the attention that is required when special help is needed. This experience should be planned as to cover the following points:



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- changes in care placements should be kept to the minimum consistent with the young person's welfare. This will provide continuity of care and of relationships, thereby showing young people how to relate to others;
- social workers and foster parents, as well as other young people who are being cared for, will therefore be able to help a young person to relate to other people;
- a young person's friends should not all come from the care system since, if they do, he may be very lonely when he leaves care. It is, therefore, well worth encouraging young people who are being cared for to make friends with young people outside the care system, eg through school or local youth clubs;
- young people who are being cared for should also be encouraged to develop friendships with suitable adults outside the care system who can provide role models. Volunteer adult befrienders who have been carefully vetted through a volunteer befriending scheme and who can stay in touch with a young person after he has left care can play a very important role here. The befriender will need to be "matched" with the young person, eg he should preferably be from the same religious, cultural, linguistic and racial background. It is desirable for the young person to decide who is to act as his befriender. The befriender should be prepared to give time to his task; should be remunerated if appropriate; and should be allowed to make contributions to reviews and on other occasions, if the young person so wishes (see also Chapter 9 – "Independent Visitors");
- the foster parents of a fostered young person should also be encouraged to continue to take an interest in him even when the fostering placement has ended;



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- a young person's parents (and his relatives generally) should also be encouraged to stay in touch with him unless this would not be in his best interests;
- young people from ethnic minorities will need to have contact with adults and young people from their own cultural background and may find it helpful to be put in touch with youth clubs or other voluntary organisations set up for people from their cultures;
- young people with a disability may have particular needs and it may be useful to refer them to suitable material and to voluntary organisations for people with a disability to support them in finding friends and developing social skills.

The process of preparation should ensure that when a young person does leave care he has a supportive network of friends many of whom will be from outside the care system and that he is well equipped to enter into relationships with others.

10.42 A Trust, in preparing a young person for leaving care, should also take account, where appropriate, of the need to enable the young person to relate better to his own family. Indeed, a Trust has a duty to make arrangements to enable a young person whom it is looking after to live with parents, relatives or friends "unless that would not be reasonably practicable or consistent with his welfare" (Article 27(2)). Even if it is proved to be impracticable or undesirable to make such arrangements, any improvement in relationships between a young person and his family that can be achieved is usually to be welcomed and will contribute to the young person's capacity to cope in adult life. Similarly, general contact with family and friends should be promoted where consistent with a young person's welfare (Article 29). Similar responsibilities are reflected in the duties of voluntary organisations and persons carrying on privately run children's homes under regulation 6 of the Arrangements for Placement of Children (General) Regulations (see Chapter 2).



- 10.43 The experience of being cared for should also include the sexual education of the young person. This may, of course, be provided by the young person's school, but if it is not, the Trust or other caring agency responsible for the young person should provide sexual education for him. This is absolutely vital since sexuality will be one of the most potent forces affecting any young person in the transition from childhood to adulthood.
- 10.44 Sexual education will need to cover practical issues such as contraception, particularly in view of the spread of AIDS. However, it must also cover the emotional aspects of sexuality, such as the part that sexuality plays in the young person's sense of identity; the emotional implications of entering into a sexual relationship with another person; and the need to treat sexual partners with consideration and not as subjects to be used. The emotional and practical implications of becoming a parent also need to be explained in some detail.
- 10.45 The fact that young people with a mental or physical disability have sexual needs should be acknowledged and young people who have been abused, or have been in touch with abused young people, may need special counselling if they are not to regard sexual feelings as a matter for shame or to regard sexual relationships as impersonal and exploitive. The needs and concerns of homosexual young men and women must also be recognised and approached sympathetically.

Enabling young people to develop their self-esteem

- 10.46 It is necessary to encourage young people from the day they begin to be cared for, to value themselves; to regard their experience of being cared for without embarrassment; and to be able to explain calmly to other people why they are being cared for and how they feel about it. It is particularly helpful if young people are told as much as possible about their family background and about all aspects of their cultural and individual identity and any physical or mental disability. It is also helpful for young people to understand how they came to be cared for. A young person's individual identity and his cultural background



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should be presented to him in a positive light and not as something about which he should feel defensive. The use of life-story books may be helpful in achieving this end, but Trusts and other caring agencies will need to note that young people should be enabled to accept themselves emotionally and not simply intellectually.

- 10.47 Some young people may need considerable counselling before they do come to accept themselves. Young people who have been rejected by their parents may need a lot of help before they can accept, emotionally, that this is no reflection on their own worth. Young people with a disability may also require a lot of counselling to enable them to accept themselves and to develop a sense of self-esteem. Homosexual young men and women may require very sympathetic carers to enable them to accept their sexuality and to develop their own self-esteem. Young people from ethnic minorities may need help – preferably from someone with the same background – to enable them to take a pride in their religious, racial, cultural and linguistic background. If necessary the Trust or other caring agency may also act as an advocate for all young people leaving care in dealing with organisations and people who may display prejudice.

Practical and financial skills and knowledge

- 10.48 Young people leaving care will need preparation in practical and financial skills and knowledge eg:
- how to shop for, prepare and cook food;
 - eating a balanced diet;
 - laundry, sewing and mending and other housekeeping skills;
 - how to carry out basic household jobs such as mending fuses;
 - safety in the home and first aid;



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- household budgeting;
- health education, including personal hygiene;
- sexual education, including contraception and preparation for parenthood;
- applying and being interviewed for, a job;
- the rights and responsibilities of being an employee;
- applying for a course of education or training;
- applying for social security benefits;
- applying for housing and locating and maintaining it;
- registering with a doctor and dentist;
- knowledge of emergency services (fire, police, ambulance);
- finding and using community services and resources;
- the role of agencies such as the Citizens Advice Bureau, local councillors and MP's;
- how to write a letter of complaint or to seek advice.

10.49 Young people who are being cared for should start to learn self-help skills at a basic level when entering their teens and should be well advanced in them by the time they leave care. Young people with a disability may need additional specific training and rehabilitation programmes to enable them to acquire these skills and to promote their independence.



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Help after leaving care

- 10.50 Most young people will continue to need some help after they have left care. The continuing needs of young people may include any or all of the following examples:
- advice and information;
 - a continued interest in their welfare, possibly from a person assigned to advise and befriend the young person;
 - assistance in cash or in kind;
 - a return to care, if necessary;
 - education and training;
 - accommodation.
- 10.51 It is desirable to monitor aftercare schemes and to evaluate them to establish how effective they are. This should be done at regular intervals. The Trust should include in these exercises representatives of the groups set up by young people who are being, or have been, cared for. This will ensure that the views of young people continue to be heard.
- 10.52 Young people may move to a different part of the country after leaving care and it is important to ensure that they do not fall through the net of Trust support if they require it. The Trust that has been helping them must inform the Trust into whose area they have moved (Article 37(3)) and in doing so should inform that other Trust of any particular needs of the young person. The other Trust will then assume the relevant powers and duties under Articles 35 to 37.



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The delivery of services

- 10.53 Where Trusts have established separate aftercare teams, it is important that the person who has been most closely involved with the young person whilst in care maintains contact and provides continued support directly to him as well as contributing to the team's planned approach. This will necessitate close liaison between those responsible for fostering and residential child care services, the field social worker, the young person and, where appropriate, the young person's parents. The principle that preparation for leaving care is to be regarded as an integral part of any care placement from the outset should underpin the development of specialist services.
- 10.54 In discharging the responsibilities outlined above, the "key" person working with a particular young person will need to liaise closely with any services provided by the Trust or the voluntary sector for young people with special needs, eg those who are disabled.
- 10.55 It is important that managers provide sufficient time and resources for staff, including residential social workers and also foster parents, to undertake and develop the necessary skills associated with leaving care and continuing support. Trusts should take account of the need to train staff and foster parents to do this difficult job properly.
- 10.56 The guidance given above relates to the Trust's own responsibilities. However, the Trust's policy statement on leaving care and aftercare services needs to refer to the role of other agencies in helping young people who are leaving care. In this connection the Trust will wish to note the help that it can require from other agencies under Article 46.
- 10.57 These other agencies will include those who are caring for young people, who might be encouraged to assume responsibility for preparing the young people they are caring for, for the time when they leave care (voluntary organisations and privately run children's homes do, of course, have a duty to do this). Trusts will also wish to encourage them to provide aftercare for young people who have left their care.



Provision of financial assistance

- 10.58 The primary income support role lies with the Social Security Agency. However, Trusts may also give financial assistance to young people leaving care. Where a Trust has either a duty or is empowered to advise and befriend young people who have left care (Article 35(4)) it may also give assistance which may be in kind or, in exceptional circumstances, in cash (Articles 35(6) and 36(1)). Many young people leaving care, particularly those who are required to live independently because they have no family home to return to, can face very severe financial difficulties at this time – both immediately and during their transition to full independence. It should be borne in mind that the Trust's power to provide assistance extends until every young person referred to in Article 35(2) reaches the age of 21. Where a young person has no parent to turn to for help, or where a parent does not have the capacity to provide assistance, it is to be expected that the young person will turn to the Trust which has in many cases been a major influence in his life for such help.
- 10.59 Trusts are encouraged to be pro-active in advising young people of the circumstances in which assistance can be provided and to take into account the fact that the reference to the provision of financial assistance "in exceptional circumstances" in Article 36(1) refers to that of the individual young person rather than the general policy of a Trust. It will be for a Trust to decide in each case whether the provision of financial assistance would be appropriate, but the presumption should be that such assistance should be provided where this is necessary to protect the young person's welfare and it cannot be made available by any other agency.
- 10.60 In addition to the general powers to provide assistance under Article 35(6), a Trust has a specific power to provide financial assistance to young people it formerly looked after where this is connected with the young person's further education, employment or training (Article 36(2)). This provision enables a Trust to contribute towards the costs of accommodation which enable the young person to live near the place where he is employed, seeking employment, or receiving



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education or training. It should be noted that the “exceptional circumstances” qualification to the provision of cash assistance in Article 36(1) does not apply to assistance given under Article 36(2) nor are the provisions of Article 18(7)-(9) applied in such cases (Article 36(4)).

- 10.61 Bearing in mind the serious problems experienced by many young people in obtaining suitable and affordable accommodation, and the importance to be attached to the ability of young people to gain stable employment or further their education, Trusts are encouraged to exercise their powers under Article 36(2) flexibly. Provision is also made for a Trust to make grants to young people to help them meet expenses connected with their further education or training (for example the purchase of books, tools or materials). It should be noted that any such financial assistance or grant provided under Article 36(2) where this is connected to a course of education or training, may continue even though the young person reaches the age of 21 before completing the course (Article 36(3)).
- 10.62 It is important that young people, residential and field social workers, parents and foster parents should be aware of the assistance that the Trust can provide. This can be achieved through the provision of a clear statement of policy on financial assistance, which should be incorporated in the published statement of the Trust's services under Articles 35-37. Young people with a disability may be particularly in need of financial assistance, especially if they have communication problems that make it difficult for them to apply to other agencies, such as voluntary organisations, for help.
- 10.63 It should be noted that financial assistance provided under Articles 35-37 is disregarded for the purposes of calculating entitlement to income support, family credit, disability working allowance or an income-based jobseeker's allowance. It is also disregarded in assessing the maintenance grant of a student on a designated course. It is important to note that a young person does not have to qualify for the above mentioned benefits before being given financial assistance under Articles 35-37.



The role of the voluntary sector

- 10.64 An important aspect of the voluntary sector's role lies in the aftercare services provided by it. Voluntary organisations are not under a duty to provide these services but Trusts will wish to encourage them to provide these for young people for whom the organisations concerned formerly cared. In some cases, Trusts will also be able to "purchase" aftercare services from voluntary organisations to help young people whose care was not provided by those organisations. Trusts are therefore encouraged to liaise with voluntary organisations in their areas to make use, where appropriate, of any aftercare services they may offer (see in particular Article 18(5)).
- 10.65 These aftercare services may include: drop-in centres; counselling; advocacy for young care-leavers, both individually and as a group; and various forms of accommodation, eg sheltered and half-way housing, refuges for children at risk, supported lodgings and continued foster care. The role of housing associations in providing suitable accommodation is particularly important. So, too, is the specialised information and advice that voluntary organisations can give to young people with a wider range of disabilities. It is important for Trusts and other caring agencies to put young people with a disability in touch with the appropriate voluntary organisations in order to provide them with additional opportunities for involvement with particular self-help or interested groups.
- 10.66 Trusts will also wish to bear in mind the help that young people leaving care can obtain from the Northern Ireland Housing Executive through its network of district offices and, in the case of Belfast, through its Homeless Advice Unit. In addition, help and advice is also available from the Housing Rights Service and the Citizens Advice Bureau as well as the voluntary sector providers of accommodation such as the Simon Community, Salvation Army and Open Door Housing Association.



The role of the probation service

10.67 A minority of young people who are being or have been cared for will have committed criminal offences. Some of these young people will be subject to a probation order or a supervision order under the Children and Young Persons Act (Northern Ireland) 1968 designating the probation service as the supervisor. The probation service is naturally concerned to ensure, as far as possible, that these young people do not re-offend. In trying to achieve its aim, it will concern itself not only with a young person's offending and its consequences but with his development into a self-reliant adult who has "grown out" of offending. It is therefore important for each Trust to consult the probation service when drawing up its written statement of policy on leaving care and aftercare services and to cover the role of the probation service in the document. It is also necessary for the Trust or other caring agency to involve the probation service closely when preparing one of these young people for leaving care or providing him with aftercare.

Accommodation for young people

10.68 Each Trust has certain duties under Article 21(1) to provide accommodation for any young person in need within its area who appears to require accommodation as a result of:

- there being no person who has parental responsibility for him;
- his being lost or abandoned; or
- the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

10.69 A Trust must also provide accommodation for any young person in need in its area who has reached the age of 16 and whose welfare the Trust considers is likely to be seriously prejudiced if it does not



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provide him with accommodation (Article 21(3)). If a Trust considers that such a course would safeguard or promote the young person's welfare it may (under Article 21(4) provide accommodation for any young person (ie not necessarily a young person in need) in its area even though a person with parental responsibility is able to provide accommodation for him. Under Article 21(5) a Trust may also provide accommodation for young people aged 16-20 in its area if this is necessary to safeguard or promote their welfare.

The role of the Northern Ireland Housing Executive

10.70 The accommodation which a Trust provides under Article 21 will be in a care setting. Article 2(8) of the Children Order makes clear that all references to the provision of accommodation listed in Article 27(2). When a young person leaves care, it may not be possible for him to return to his family and he may require housing. The primary responsibility for housing lies with the Northern Ireland Housing Executive. Close liaison between Trusts and the NIHE is necessary. It is suggested that liaison should take place between the designated senior officer in the Trust and designated officers in the NIHE to agree the arrangements for referring young people to the latter. The NIHE's policies on these issues will, of course, need to be spelt out in its contribution to the Trust's written statement of leaving care and aftercare services and in its easy-to-read guide to those services.

The role of the youth service

10.71 Trusts will wish to note the help that the youth service – both statutory and voluntary – can give to young people who are being, or who used to be, cared for. This help may include advocacy of the interests of individual young people. More particularly, the youth service can offer support to vulnerable young people and give them the opportunity of extending their social network outside the care system. Young people with a disability may need advice and help to enable them to integrate into local youth services and they may need to be enabled to choose to use special youth services (eg deaf clubs) if they think these are right for them.



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10.72 Young people from ethnic and cultural minorities may also find the youth service particularly helpful in enabling them to meet other young people, and adult youth leaders, from their own ethnic and cultural background.

The role of the school

10.73 It is essential that every effort be made to enable a young person to fulfil his potential and to reduce the degree of disadvantage experienced by many of those leaving care. It is important for schools to be aware of the dangers of under-expectation regarding the academic potential of young people who are being cared for to ensure that such young people are given every encouragement to obtain academic qualifications and to develop their emotional, social and intellectual potential. Young people who are under-achieving at school will need attention to remedy this well before they leave care. The role of the Trust or other caring agency in this is that of a good parent. In exercising parental responsibility the young person's carer should ensure that the school is made fully aware of all relevant information regarding the young person's abilities and interests and that the school receives the support and reinforcement that would be expected from a concerned parent. Such support should include supervising homework and attending meetings at school with teachers, head teachers and careers staff.

10.74 The Trust or other caring agency should also encourage the young person to continue his education beyond the minimum school-leaving age unless he will quite clearly not benefit from this. It is important to note that a lot of young people with a disability, including many with impaired sight, hearing or speech, are quite capable of benefiting from further education and should be encouraged to undertake it. They may, of course, need special facilities such as interpreters, note takers and readers. Further guidance on young people with a disability is contained in **Volume 5: Children with a Disability**.

10.75 Like any other young person, a young person who is being cared for will receive careers education and guidance at school. The Trust or



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other caring agency should ensure that this is received in good time, is appropriate and includes advice on the possibilities of undertaking a course of further education. The young person's carer should be involved in considering such advice and should discuss the available options with the young person, assisting him to reach a considered decision in full knowledge of the short-term and long-term advantages and disadvantages of any choice.

Training

- 10.76 Training and education should not be regarded as distinct and separate activities. However, training is covered separately from education in this guidance in order to explain the role of the different agencies concerned.
- 10.77 The Trust or other caring agency involved should be ready to inform the young person of the existence of training, eg Youth Training (YT) and training schemes geared to a particular occupation. Although it will not be able to advise in detail on such training schemes, it should be able to refer the young person to those best able to advise him. This referral may be to the school careers advisory service, the local Careers Officer (for YT) and the relevant occupational body for schemes geared to a particular occupation. If the young person has a disability, it may be useful to refer him to a Disablement Resettlement Officer at a Job Centre.

The role of the Careers Service

- 10.78 The Careers Service provides the link between the worlds of work and further education. It is a prime source of contact for employers, training providers, teachers, those involved in higher and further education and others responsible for helping young people. The Careers Service aims to ensure that young people understand all the options open to them, including both the short-term and long-term prospects in any particular career, so that they can make informed choices. The Careers Service gives information to young people on employment and training opportunities; it is the main placing agent



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with YT; and it gives young people information on what YT programmes are available. Careers Officers work closely with careers teachers in schools and generally contact pupils in their third year at school. Trusts and other caring agencies will, as good parents, need to ensure that all young people for whom they are caring do receive this advice from the Careers Service. Young people with a disability should receive careers advice like other young people in care. It is important to ensure that they are not advised to take up an undemanding job unless their disability really does prevent them from embarking on a challenging career.

Returning to take up courses of education or training

- 10.79 Trusts should advise those who have left school without qualifications that it is not too late for them to remedy this situation and they may wish to provide advice on finance for educational and training courses. If the Trust is still exercising parental responsibility, the carer might support the young person by attending meetings at the school to discuss an appropriate programme of study. The Trust may also need to liaise with the education and library board which has responsibility for further education.

Trust assistance to young people receiving education or training, or employed, or seeking employment

- 10.80 Trusts should bear in mind the powers they have to assist young people who left Trust care when aged 16 or over and who are employed, seeking employment, or in receipt of education or training (Article 36(2)). These powers last until a young person reaches the age of 21 and they can therefore be invoked well after the young person has left the Trust's care.

Social security benefits

- 10.81 Trust powers to give assistance in cash or in kind are designed to meet the special needs of young people leaving care. They are not designed simply to duplicate the social security system.



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- 10.82 Trusts should advise young people who are in, or have left care, on the social security benefits they may be entitled to and the way in which they can claim them. This can most easily be done by obtaining the relevant social security leaflets from the local social security office, or material specially prepared for young people by youth organisations, and making them available to the young people concerned as a first step. This material should be made available in other languages where appropriate. Regulations for awarding income support to 16 and 17 year olds are very stringent and are linked to the provision of YT placements. Specialist advice is often required to ensure that young people receive their full entitlement and where advice is not readily available within a Trust, reference to an agency such as the Citizens Advice Bureau should be considered.
- 10.83 If a young person has a disability, advice on benefits for disability should be available as a priority. If the Trust has a welfare rights officer he should be able to give this advice. The services of an interpreter may be necessary if the young person's disability involves problems in communicating.
- 10.84 Trusts will wish to note that any payments made to a young person under Article 35-37 are not regarded as a part of his income or capital when calculating his entitlement to income support, family credit, disability working allowance or an income-based jobseeker's allowance.



CHAPTER 11: REPRESENTATIONS AND COMPLAINTS PROCEDURES

- 11.1 Trusts, voluntary organisations and privately run children's homes (henceforward called "responsible authorities") are required to have a procedure for considering representations (including complaints) about children's services. This procedure relates to Articles 37(1)-(2), 45(3)-(8), 75(4), 105(2)(f) of, and paragraph 6 of Schedule 5 to, the Children Order. It should cover all representations about the Trust's actions in meeting its responsibilities to any child in need under Part IV of the Children Order. Voluntary organisations and privately run children's homes are also required to set up representations procedures to consider representations – including complaints – made by or on behalf of children accommodated by them but not looked after by a Trust.
- 11.2 The Children Order and the Representations Procedure (Children) Regulations provide framework on which all responsible authorities should build to achieve a procedure and approach which best suits local needs and their organisational structure. The regulations set the minimum standard of provision that responsible authorities should establish.
- 11.3 The Children Order envisages a high degree of co-operation between parents and the Trust in negotiating and agreeing what form of action will best meet a child's needs. It also calls for the informal participation of the child and parents in decision-making about services for the child. Sometimes the required co-operation will not be achieved. The Children Order requires that responsible authorities establish a procedure which provides an accessible and effective means of representation or complaint where problems cannot be otherwise resolved. It is envisaged that the procedure will be used primarily for handling complaints rather than representations and the guidance concentrates on complaints. The procedure will involve independent persons and should ensure that the child, his parents and others significantly involved with the child have confidence in their ability to make their views known and to influence decisions made about the child's welfare.



11.4 The responsible authority should aim to develop a procedure which is understood and accepted by all involved. The procedure should take account of the need for consultation with community groups, voluntary and other organisations with an interest, carers and with all staff at all levels. The responsible authority should seek to involve the community in setting up its representations procedure so that the procedure reflects the needs of those who may need to use it.

Definitions

11.5 For the purpose of this guidance, the following definitions are used:

- a “responsible authority” is a Trust, voluntary organisation or privately run children’s home;
- “representations” will include inquiries and statements about such matters as the availability, delivery and nature of services and will not necessarily be critical;
- a “complaint” is a written or oral expression of dissatisfaction or disquiet in relation to an individual child about the Trust’s exercise of its functions under Part IV of, and paragraph 6 of Schedule 5 to, the Children Order and matters in relation to children accommodated by voluntary organisations and privately run children’s homes. A complaint may arise as a result of an unwelcome or disputed decision, concern about the quality or appropriateness of services, delay in decision-making about services or about their delivery or non-delivery (the precise meaning of complaint is a matter for interpretation by the courts);
- a “complainant” is the child or person making the complaint on his behalf;
- an “independent person” is a person, not a member or officer of the responsible authority handling the child’s case who is required to take part in the responsible authority’s consideration of a complaint made to it.



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The independent person is not an advocate for the child nor an investigator; his role is to provide an objective element in the responsible authority's considerations (see regulations 5 and 7);

- A "panel" is a group of three people, at least one of whom is an independent person appointed by the responsible authority to consider complaints reviewed by the responsible authority under the complaints procedure when the complainant remains dissatisfied and to make a recommendation about further action (see regulations 7 and 8);
- the "procedure" is the representations and complaints procedure which responsible authorities are required to set up by the Children Order;
- the "designated officer" is the officer which the responsible authority is required to appoint to assist in the co-ordination of all aspects of the consideration of complaints.

Who may complain?

11.6 The Children Order requires the responsible authority to establish a procedure for considering any representations (including any complaint) made to it by:

- any child who is being looked after by it or who is not being looked after by it but is in need;
- a parent of his;
- any person who is not a parent of his but who has parental responsibility for him;
- such other person as the responsible authority considers has a sufficient interest in the child's welfare to warrant his representations being considered by it,



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about the discharge by the responsible authority of any of its functions under the Children Order in relation to the child.

- 11.7 The responsible authority should always check with the child (subject to his understanding) that a complaint submitted reflects his views and that he wishes the person submitting the complaint to act on his behalf. Where it is decided that the person submitting the complaint is not acting on the child's behalf, that person may still be eligible to have the complaint considered under the procedure. The Representations Procedure (Children) Regulations makes it clear that the responsible authority has discretion to decide in cases where eligibility is not automatic whether or not an individual has sufficient interest in the child's welfare to justify his own representation being considered by it. The responsible authority should have a clear policy on this matter which takes account of the Children Order's emphasis on participation in decision-making of all those persons who are significant to the child or can make a positive contribution to planning for the child's future. A flexible approach to this issue will ensure that such individuals are not overlooked or obliged to use other means to make their views or complaint known.

What may be complained about?

- 11.8 A Trust's procedures must cater for complaints from the people mentioned above about Trust support for families and their children under Part IV of the Children Order. This will include complaints about day care, services to support children within the family home, accommodation of a child, aftercare and decisions relating to the placement of a child or the handling of a child's case. The processes involved in decision-making or the denial of a service must also be covered by the Trust's arrangements. In addition to those matters directly related to the provision of services to children in need, other matters fall within the scope of the Representations Procedure (Children) Regulations and must be covered by the procedure a Trust sets up to meet the requirements of those regulations. Regulation 12(2) refers to representations about decisions by a Trust in respect of exemptions to the "usual fostering limit" (paragraphs 4-6



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of Schedule 5 to the Children Order). Such representations should be dealt with in accordance with the regulations and the guidance below. Regulation 10(1) and (2) requires that voluntary organisations and privately run children's homes also set up representations procedures in line with the regulations to consider representations from children accommodated by them and others eligible to make representations.

- 11.9 The responsible authority should consider what other matters might be appropriate to the procedure set up to meet the requirements of the regulations. The responsible authority should allow representations to be made about matters which affect a group of children rather than an individual child to be processed within its procedure. For example, inappropriate restrictions on the lives of children in residential care such as preventing children's activities for the convenience of staff, fixing meal times to suit staff rather than to fit in with the normal needs of children or preventing children's normal activities outside the home.
- 11.10 Dissatisfaction about a Trust's management or handling of a child's case, even where related to a court order, may be appropriate to the complaints procedure. The inclusion of a child's name on a child protection register is an administrative action not carried out under any statutory provision (even where the decision is linked to a recommendation to seek a court order) but is part of an inter-agency process for which the Trust is in the lead but does not carry full responsibility. While the requirements of Article 45 are confined to the Trust's functions under the Children Order it would be good practice to provide, with the agreement of the Area Child Protection Committee (ACPC), an appropriate procedure to handle complaints about inter-agency case conferences and their recommendations.

Objectives

- 11.11 Children and others making representations or complaints should have access to a procedure which provides them with an opportunity to make representations and complaints about, and challenge



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decisions made in relation to, services provided to them direct or via an agency. This is particularly important when no other means of redress is open to them and is valuable even when alternative avenues do exist. A well publicised statement of commitment to the representations procedure should encourage the identification and speedy resolution of representations and complaints as they arise. Secondary benefits of the system will be to illustrate to the responsible authority how policies translate into practice and to highlight areas where it should be more responsive to the needs of individual clients and the community.

- 11.12 The statutory requirements and the associated guidance seek to achieve an accessible and effective means of making complaints, close to the point at which the problem arose but with an independent element that will inspire confidence in the procedure. That confidence will not develop unless complaints are acted on within the shortest possible time and an opportunity to challenge the outcome of the considerations is available. The regulations require that the responsible authority's arrangements should satisfy those criteria. It is not intended that all problems that arise in the day-to-day handling of child care services should automatically be elevated to the status of a complaint. A matter which is promptly resolved to everyone's complete satisfaction when drawn to the attention of an officer of the responsible authority is not something that requires referral to the procedure.

Problem-solving

- 11.13 It will usually be possible to resolve a problem satisfactorily before a complaint is made. Efforts to resolve matters will include discussion and reconsideration as well as explanations of decisions made and actions taken. The aim should be to resolve dissatisfaction as near to the point at which it arose as possible. The responsible authority may wish to consider how it can ensure that advice and support is available to persons expressing dissatisfaction at this stage. Advocacy as a service to the child as part of child care service provision is not ruled out by the Representations Procedure



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(Children) Regulations, nor is it ruled out if a responsible authority wishes to provide such a service to support the child in this or other procedures. However, attempts at problem-solving should not be used to divert an eligible person from lodging a complaint under the statutory procedures.

- 11.14 Staff will need advice on the difficult issue of when an unresolved problem becomes a complaint. This will help to ensure that the problem-solving stage is not prolonged beyond any positive period of action, thereby delaying or preventing recourse to the representations procedure, and that problems capable of simple resolution do not become complaints. The responsible authority may wish to consider whether it would be helpful to individuals to know that they are expected to resolve a request for a review of a decision within a specified time limit. Attempts at problem-solving should not end once a complaint has been registered. Rather, there should be continued efforts to resolve the dissatisfaction of service users so that the matter complained of is resolved during consideration of the complaint.

Publicity

- 11.15 Responsible authorities are required to publicise their representations procedures. It is recommended that each responsible authority should publicly announce the setting up of the procedure and invite the participation of service users, community groups and others. The publicity should make clear who is entitled to make use of the procedure and how they may do so, what the procedure covers, to whom a representation or complaint should be addressed, who is available to give advice, the stages in consideration of a representation or complaint and the timescale for each stage. The publicity should be framed in terms that make clear that the procedure is a part of the responsible authority's commitment to partnership and the participation of child and parents in the provision of services.



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11.16 Information should be available in the form of leaflets and posters at the responsible authority's premises, health clinics, schools, libraries, family centres, doctors' surgeries, residential homes, Citizens Advice Bureaux and other suitable places. Information leaflets and booklets, using plain language and, where there is an identified need, in other appropriate languages, should be freely available to children of sufficient understanding, parents and others who may be eligible to use the procedure. In addition it would be good practice to ensure that the information on the representations procedure forms part of an information pack made available prior to a first review of a child's case or at the time a decision is issued in respect of approval of a foster parent. Consideration should be given to deciding how best to provide the information in alternative formats such as in large print, braille, on tape or video. All the material should present a positive view of the use of the procedure and should seek to counter fears that invoking the procedure will cause problems for a complainant in their day-to-day contact with the responsible authority.

Management issues

11.17 A representations procedure will be effective only if the responsible authority demonstrates commitment to it, ensuring, as required by regulation 2(2), that its policy and the details of the procedure are known, understood and accepted by staff, independent persons and clients. Staff may have concerns about workload, their own ability to operate within the procedure or their vulnerability to unfounded complaints. An unequivocal policy statement on the scope and benefits of the procedure, together with recognition of the need for management structures and staff training which reflect the demands of that policy will help to reassure staff. Discussions with staff and their associations will identify areas of concern and afford opportunities for addressing these concerns. Some responsible authorities may have procedures in place that will require little modification to meet the requirements of the Children Order. Where this is the case staff will still need to know of any changes, including the scope of the procedure and an explanation of the effect on the procedure of the Children Order requirements.



Representations involving more than one Trust

- 11.18 If a representation is made which involves more than one Trust, it should be considered by the Trust which is looking after the child. If the child is not being looked after but provided with other services the Trust in whose area the child normally resides should consider the complaint. In such cases, it is suggested that the designated officers of the Trusts involved work together.

Links with other procedures

- 11.19 There will be a need for links with other procedures including those within other agencies contributing to child care services. For example, health professionals may be involved in family support and child protection work. Other agencies which may be involved in child care services include education and library boards, the Northern Ireland Housing Executive, voluntary and private child care organisations, the probation service and the police. It is essential that arrangements cover both the separating out of representations or complaints appropriate to another procedure and cases where some joint action is appropriate.

Children with a disability

- 11.20 Complaints about the discharge by a Trust of any of its functions under Part IV of the Children Order including functions in relation to children with a disability will be dealt with under this procedure, whether the complaint is about services provided or about decision on what services are or are not to be provided following an assessment of a child's needs.

Other avenues of complaint

- 11.21 The procedure required by the Representations Procedure (Children) Regulations is not an appeals procedure. Separate procedures exist under the Children Order for appeals against the "usual fostering unit" exemption. Appeals against court orders will be to the court.



Such court procedures need not exclude the processing of a complaint which is eligible for consideration under the representations procedure, but legal advice should be sought in such cases.

The Commissioner for Complaints

- 11.22 The Commissioner for Complaints may investigate a complaint about maladministration by a responsible authority where the complainant is not satisfied with the conduct or outcome of the responsible authority's own investigation.

Appropriate procedure in the Trust

- 11.23 Whenever a complaint is made the implications for other procedures should be considered and addressed. Procedural guidance will need to be clear on the distinction to be made between the complaint, a grievance and the reporting of a matter which is a criminal offence. Staff will wish to be reassured that the establishment of a representations procedure will not lead to the by-passing of existing grievance and disciplinary procedures and clients need to know which procedure is deemed appropriate and why.
- 11.24 The handling of a complaint may be concurrent with action under the disciplinary procedures or child protection action and on occasion a police investigation. Decisions on how to proceed will be made on the basis of individual cases and local guidance will be necessary on how priorities are identified and decisions made in relation to individual cases. The need to protect a child has to be the first priority and where the complaint is made by a child, the need for child protection action should be considered. If child protection action is appropriate, the inter-agency procedure should be brought into action at the earliest possible stage. The fact that a child is accommodated by or on behalf of a Trust makes this more important, not less
(Volume 6: Co-operating to Protect Children).



11.25 Usually a complaint will be a perceived failure of the responsible authority rather than an individual and will be clearly a matter for consideration under the procedure. A complaint may be linked to a matter that is being dealt with under the grievance procedure (which concerns staff issues such as conditions of service) or the disciplinary procedure (which applies to actions of staff in relation to failures to comply with instructions, guidance or codes of practice etc). The responsible authority should make clear to staff, trades unions and professional associations that consideration of the complaint is distinct from any action that may be necessary under the grievance or disciplinary procedures. In such cases staff and trades unions should be kept informed of progress in consideration of the complaint, but they should not be given any details which would breach confidentiality where this would be against the best interests of the child.

Support of those using the procedure

11.26 The responsible authority will need to consider what type of support and encouragement it can offer to clients to make use of the system and to pursue their representation or complaint through the procedure. Information leaflets and open letters to children and parents being provided with services will help to make clients aware of the procedure. However, some parents and most children will need advice and confidential support to make their representation or complaint, to pursue it, to understand the administrative process and to cope with the outcome.

11.27 Regulation 3(1) of the Representations Procedure (Children) Regulations requires that responsible authorities offer assistance and guidance on the use of the procedure or give advice on where this may be obtained. Responsible authorities will wish to consider how this obligation can be fulfilled. Where the responsible authority has made the kind of provision to assist problem-solving outlined in paragraphs 11-13 and 11-14 it may wish to extend those arrangements to provide support for complainants. Children accommodated in a residential care setting are likely to need support



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at every stage if they are to be confident enough to invoke the procedure and to be sure that making a representation will not rebound upon them. This may mean that a person who has no line management or service delivery responsibility or involvement in the child's case should be available to work with the child in the matter of a representation. The responsible authority will wish to consider how this could best be arranged. Where voluntary organisations and privately run children's homes are providing accommodation for children in small establishments, they will need to take special care that their arrangements provide the children with appropriate support and the independent element required in the procedure.

- 11.28 Staff directly involved in a matter complained of or with the child in another context should be informed of a complaint and actions that are taken during the considerations by the responsible authority. Whatever their involvement staff may need increased support and supervision from line managers to help them co-operate with considerations under the procedure and to work positively with the child.

Staffing

- 11.29 The regulations give reasonable authorities discretion as to how to decide to use the officer they are required to designate to assist in the co-ordination of all aspects of the consideration of representations. However it is recommended that each responsible authority designate an officer to take day-to-day responsibility for the co-ordination of the procedure. The post will need to be at a sufficiently senior level to reflect the importance of the task and the responsible authority's commitment to it. The skills required are not specific to any one discipline and it may be that an administrator would best combine the variety of tasks the post will include. The appointment of an administrator, recognisably independent of professional line management, could help demonstrate the separate role of the designated officer.



11.30 In particular, the designated officer might:

- receive and investigate, or oversee the receipt and investigation of complaints that cannot be resolved informally;
- give advice on the response of the responsible authority to individual complaints;
- ensure the smooth running of the panel arrangements, including the appointment and servicing of panels.

11.31 The responsible authority may wish additionally to give responsibility for the overall organisation and effectiveness of its procedure to one of its senior officers. This job could include:

- establishing, resourcing and monitoring the procedure;
- directing and overseeing the arrangements made for training and publicity;
- collating data on complaints and disseminating that data to line managers and to members of the responsible authority.

Independent element of the procedure

11.32 The Representations Procedure (Children) Regulations provide for a two stage procedure with an independent element at each stage. Regulation 4 requires that an independent person be involved from the outset of the considerations and regulation 7 requires that a panel be convened including at least one independent person where a first stage consideration has not satisfied the complainant. There is nothing in the regulations which prohibits the independent person involved in the first stage consideration of a case from being a member of the panel, but the responsible authority will wish to consider to what extent the panel can take a fresh look at the case if the same independent person is involved. The responsible authority



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may wish to draw up a list of independent persons suitable and willing to act as an independent person or to sit on a panel. It would be good practice to consult community groups when drawing up a list. Trusts should seek also to draw upon voluntary groups, other agencies and independent professionals to ensure that independence is demonstrably built into their procedure. Responsible authorities will need to look carefully at the independence of a member of a voluntary organisation when contractual arrangements exist between the responsible authority and the voluntary organisation

- 11.33 Local arrangements will reflect the demand upon the procedure, the different racial and cultural groups in the area and the availability of suitable people willing to serve. In some areas a standing panel appointed for a period (perhaps not exceeding three years) might be an effective arrangement. In other areas, it may be more appropriate for a panel to be convened for each occasion. The responsible authority will need to consider what training or other support such as legal advice it might wish to provide for independent persons. This might be appropriately dealt with by joint initiatives to devise appropriate training strategies between responsible authorities.

Appointment of Independent persons

- 11.34 The responsible authority will need to appoint independent persons both to consider complaints as individuals at the first stage and as part of a panel at the second stage. Regulation 1(2) states who is excluded from acting as an independent person. In addition, it is recommended that the independent person should not be a spouse of an officer or member of the responsible authority. It is also recommended that co-habitees of those excluded from being independent persons are excluded. The responsible authority will need to make clear to prospective independent persons the nature of the task and the degree of commitment required. The responsible authority will need to be able to identify quickly independent persons with particular skills or knowledge that may be required in a particular case. Independent persons should be given a letter of appointment explaining the duties they will be required to carry out, drawing



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attention to important issues such as confidentiality, and making clear the working arrangements involved in the consideration of complaints. The letter should also describe the expenses and other payments to which they may be entitled.

Setting up the procedure

11.35 The complaints procedure established by the responsible authority should be uncomplicated, accessible to those who might wish to use it, understood by all members of staff and should reflect the need for confidentiality at all stages. The responsible authority has discretion to decide how exactly to implement the regulations and set up the procedure to best suit local needs. However to meet the minimum requirements of the regulations and the Children Order, the responsible authority should:

- designate an officer to assist in the coordination of all aspects of the consideration of complaints (regulation 2(1) and paragraphs 11.29 and 11.30);
- publicise the procedure (Article 45(8) and paragraphs 11.15 and 11.16);
- ensure that members of staff of the responsible authority and independent persons are familiar with the procedure (regulation 2(2) and paragraph 11.17);
- acknowledge all complaints received by sending the complainant an explanation of the procedure and offer assistance and guidance on it or advice on where assistance and guidance may be obtained (regulation 3(1) and paragraph 11.36);
- accept and record any oral complaints in writing agreeing them with the complainant (regulation 3(2) and paragraph 11.37);
- appoint an independent person to consider the complaint



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with the responsible authority (regulation 4 and paragraphs 11.32-11.34);

- consider the complaint with the independent person and respond within 28 days of receipt of the complaint (regulation 5 and paragraphs 11.40 and 11.41);
- address the response to the person from whom the complaint was received; and also, where different, to the person on whose behalf the complaint was made and to any other persons who appear to have a sufficient interest or are otherwise involved or affected. The response should advise the complainant what further options are open should he remain dissatisfied (regulation 7(1) and paragraph 11.41);
- make arrangements so that where a complainant remains dissatisfied and requests (within 28 days) that his complaint be reviewed, a panel is constituted by the responsible authority to meet within 28 days of the responsible authority's receipt of the complainant's request (regulation 7(2) and (4) and paragraphs 11.41 and 11.42). The panel is required by regulation 7(3) to include at least one independent person. The complainant, the responsible authority and the independent person appointed under regulation 4 should be allowed to make oral or written submissions to the panel if he is not a panel member (regulation 7(5) and paragraph 11.44). the complainant may be accompanied at a panel meeting by another person of his choice who may speak on his behalf (regulation 7(6) and paragraph 11.44);
- ensure that the panel's recommendation is recorded in writing within 24 hours of the completion of its deliberations (regulation 8(1)), and is sent (formally) to the responsible authority, to the complainant, to the first stage independent person and to anyone acting on the complainant's behalf (regulation 8(2) and paragraph 11.46);
- decide on the response to the recommendation of a panel



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after consideration with an independent person from the panel (Article 45(7)(a), regulation 8(3) and paragraph 11.47) and make the decision known in writing to the person who requested that the complaint be considered by the panel, and where different, the person on whose behalf the request was made, the first stage independent person (if different from the independent person on the panel) and any other persons as appear to have a sufficient interest or are otherwise involved or affected. Notification should be given within 28 days of the date of the recommendation. The letter should explain the responsible authority's decision and the reasons for it and any action it has taken or proposes to take (Article 45(7)(b));

- keep a record of all complaints received and the outcome in each case; and identify separately those cases where the time limits imposed by the regulations have been breached (regulation 9(2) and (3) and paragraph 11.51);
- provide an annual report on the operation of the procedure (regulation 9(2) and (3) and paragraphs 11.54 and 11.55).

Receipt of complaint

11.36 When a responsible authority receives a complaint about the discharge of any of its functions under the Children Order in relation to a child by any of the persons eligible to make a complaint (see paragraph 11.6), an acknowledgement of the complaint should be sent to the complainant with a leaflet describing how the representations procedure works and giving the name of the designated officer with responsibility for coordinating the handling of complaints under the procedure (see regulation 2 and paragraphs 11.30 and 11.31). The provision of a clear and easy to understand leaflet is an important part of the responsible authority's duty to publicise the representations procedure (see paragraphs 11.15 and 11.16 for guidance on publicity). It will be good practice for the leaflet to inform the complainant of other avenues by which to pursue his complaint including the option of complaining directly to the



Commissioner for Complaints.

Oral complaints

- 11.37 If a complaint is made orally, the responsible authority is required by regulation 3(2) to arrange for it to be recorded in writing and agreed with the complainant. The responsible authority will need to consider how to meet the varying need of children in this respect. This will be particularly important in relation to children from ethnic minorities whose understanding of English may be limited and children with communication difficulties. Similar consideration will also apply in relation to adults from these groups who may be making the complaints. Facilities available for people from these groups should be well publicised including local voluntary organisations and community or self-help groups.

Determination of eligibility to complain

- 11.38 The responsible authority may also receive complaints in relation to child from persons other than those covered by the categories who are automatically entitled to complain. The complaint could be made by a relative, friend, teacher, GP or any other person. The responsible authority has to consider whether that person has sufficient interest in the child in order to determine his eligibility. The responsible authority should consider the views of the child where he is of sufficient understanding and of the other people mentioned in paragraph 11.6 to help it decide whether it is necessary to consider the representation in order to promote and safeguard the welfare of the child.

Notification of determination of eligibility

- 11.39 Once the responsible authority has determined whether the complaint is eligible for handling under the procedure, the complainant should be notified in writing and provided with a copy of the responsible authority's leaflet on its representations procedure. The child should also be notified where he is not the complainant if the responsible authority considers he is of sufficient understanding,



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whether or not the complaint is deemed to be eligible. The date of receipt of a complaint which required consideration for eligibility will be the day on which the responsible authority makes its decision about eligibility. Where it is decided that an individual is not eligible to pursue a complaint on behalf of a child, the responsible authority should consider whether the substance of the complaint needs to be addressed as if the child had complained.

Consideration with independent person

- 11.40 The basis of the representations procedure is that an independent person should be actively involved in considering the complaint. Once appointed by the responsible authority the independent person should take part in all discussions the responsible authority may hold about the complaint. He should be allowed to interview the child, the complainant where this is not the child, parents and other involved persons including relevant members of staff if he considers this necessary in order to form an independent view. He should also be given access to relevant parts of the case record. It is recommended that the independent person should provide written comments to the responsible authority.

Notification of responsible authority's decision

- 11.41 The responsible authority should notify the complainant, the child if he is of sufficient understanding, the independent person and any other person the Trust considers has a sufficient interest in the child of the proposed result of its consideration (regulation 7(1)). The letter should be clear and simple and give reasons and proposed action, whether or not it changes an earlier decision which gave rise to the complaint. The letter should also remind the complainant of his right to request that the complaint is considered by a panel with an independent person sitting on it. If the complainant does wish to take advantage of this he should be asked in the letter of notification to make a formal written request which should reach the responsible authority no later than 28 days from the date on which the letter of notification was sent (regulation 7(2)).



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Reference to panel

- 11.42 If the complainant is dissatisfied with the responsible authority's proposal, whether or not the independent person is in agreement with that decision, he can request that the complaint be considered by a panel. Under the regulations, the responsible authority is required to appoint a panel and arrange for the panel to meet to consider the complaint within 28 days of receipt of the letter from the complainant requesting the complaint to be considered by the panel. If no such letter is received from the complainant then consideration of the complaint is ended.

Notification of panel meeting

- 11.43 It is recommended as part of the arrangements of the meeting, that the complainant and the independent person who considered the complaint at the previous stage (if he is not a member of the panel) are notified in writing of the date, time and venue of the meeting and invited to attend. It would be good practice to inform the complainant of the name and status of the panel members specifying which member is the independent person and which officers of the responsible authority will be present.

Submissions to the panel

- 11.44 The complainant may make written submissions to the panel before the meeting and make oral submissions at the meeting. The responsible authority has a corresponding right to make submissions to the panel (regulation 7(5)). The first stage independent person also has the right to make written and oral submissions to the panel (if he is not a member of the panel). His letter of appointment will have made this clear (see paragraph 11.34). The complainant should also be informed of his entitlement to be accompanied by another person who shall be entitled to be present at the whole meeting and to speak on his behalf if he so wishes (regulation 7(6)).



Conduct of the meeting

- 11.45 It is suggested that the meeting is conducted in as informal an atmosphere as possible. In arranging a meeting, the responsible authority will have to consider whether any special provision needs to be made for complainants from ethnic minorities whose understanding of English may be limited or for complainants with a disability who may have mobility problems or communication difficulties.

The panel's recommendation

- 11.46 Regulation 8(1) requires that the panel records the reasons for its recommendation in writing. The panel is also required by regulation 8(1) to decide on its recommendation within 24 hours of the meeting and to notify in writing the responsible authority, the complainant, the independent person involved in the first stage consideration (if he is not a member of the panel) and any other person whom the responsible authority considers has sufficient interest in the case (regulation 8(2)). The panel may, if it considers it appropriate, make its decision at the meeting. If the panel does not make its decision at the meeting or immediately after the meeting, it must reconvene within the 24 hour limit to make its decision. The letter of notification should explain simply and clearly the reasons for the decision. The letter should also advise the complainant that the responsible authority is required to consider to have due regard to the panel's recommendation.

Reconsideration of decision by the responsible authority

- 11.47 The responsible authority is required to consider what action should be taken in the light of the panel's findings, in conjunction with an independent person from the panel (regulation 8(3)). The responsible authority will also wish to take account of the effect of the findings and the outcome of its considerations upon the child (and complainant if not the child). There may be aspects of the complaint which require further inquiry under different procedures.



Notification of the responsible authority's consideration of panel's recommendation

- 11.48 The responsible authority should notify the complainant, the child if he is considered to have sufficient understanding and such other persons as the responsible authority considered appropriate. This notification should be given within 28 days of the date of the panel's recommendation. The notification should be clear and simple, explaining the responsible authority's reasons for the decision. Those whom the responsible authority should consider notifying may include the panel, the independent person involved in the first stage consideration (if he is not a panel member), relevant members of staff in the responsible authority and other agencies. The responsible authority may also wish to notify a child's independent visitor or someone in another agency working with the child, particularly where the child will need support to come to terms with the decision. The responsible authority should arrange for explanations to be given in advance of formal notifications wherever possible to the child, to parents and to other complainants if appropriate. In particular, the child may need reassurance and should be given opportunities to discuss his feelings about the outcome of the consideration. This will be the case whether or not the outcome is one that the child or complainant welcomes. Where it is appropriate the responsible authority should advise the complainant of other avenues of complaint or appeal that may be open to him. Informative leaflets could be provided with the notice of decision. Equally, members of a responsible authority's staff who were involved in the matter complained of should receive an explanation of the outcome of the considerations.

Subsequent action

- 11.49 The responsible authority should take any action decided upon as a result of the findings in an individual case as soon as possible after the decision has been reached. Delay would undermine confidence in the procedure and might well become the subject of another complaint or cause the complainant to seek another remedy.



11.50 The responsible authority will wish to take note of aspects of the case complained about that require action under other procedures or that have general implications for policies or practice. In the first instance the other procedure should be identified and the relevant body should be informed and appropriate arrangements made. Where issues of policy and practice arise, the responsible authority will need to consider how best to address the issue and the timescale for action. Serious matters will need immediate attention.

Monitoring

11.51 Regulation 9 sets out requirements for responsible authorities to monitor the operation and effectiveness of their representations procedure. A record should be kept of each complaint received which details the nature of the complaint, the action taken, the outcome of each complaint and whether there was compliance with the time limits specified in regulations 5(1), 7(4) and 8(1) (regulation 9(1) refers). This information should provide regular and anonymised information about numbers and types of complaint received, the time taken to deal with them and their outcome. All responsible authorities should devise systems locally to provide for:

- the dissemination of this information to line managers;
- its use as a measure of performance and means of quality control;
- information derived from complaints about services subject to statutory regulation (such as residential care homes) or where services purchased under contract are concerned, to be notified to the person responsible for monitoring the contract.

11.52 Information about complaints that are dealt with and resolved at the first stage may be of equal value to information about the small number of complaints referred to the panel. Where such (first stage) complaints raise policy, resource management, staffing or other issues, line managers should be informed.



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- 11.53 Information collected during the monitoring process and during consideration of individual complaints will provide feedback on management and operational matters such as how policies are interpreted by staff and service users, how effective communication is within the responsible authority and to the public, where staff training is required and whether resources are targeted correctly.
- 11.54 An annual report dealing with the operation of the complaints procedure should be compiled by each responsible authority. The report should be available, with a copy of the procedure, at any inspection authorised by the Department. The report should include:
- a summary of the statistical and other information;
 - a review of the effectiveness of the procedure.
- 11.55 In preparation for making the annual report, responsible authorities should consider inviting comment from those consulted during the setting up of the procedure on the question of its effectiveness and on the scope for possible improvements. Regular consultation with such groups and sharing information on the outcome of the monitoring process will help to build confidence in the operation of the procedure.



CHAPTER 12: ARRANGEMENTS TO ASSIST CHILDREN TO LIVE ABROAD

- 12.1 Article 33 replaces section 118 of the Children and Young Persons Act (Northern Ireland) 1968 and introduces new requirements concerning arrangements to assist children looked after by Trusts to live abroad. In some circumstances it may be more beneficial to a child's welfare, if, after all other possibilities have been explored, for arrangements to be made for the child to live abroad. For example there may be instances where a child looked after by a Trust has the chance to be reunited with members of his extended family who are living abroad. The action to be taken depends upon whether the child is provided with accommodation on a voluntary basis or is in the care of a Trust under a care order.

Children provided with accommodation by a Trust

- 12.2 A Trust may, with the approval of every person who has parental responsibility for the child, arrange for, or assist in arranging for, a child provided with accommodation by it to live outside Northern Ireland (Article 33(2)). In most cases assistance provided by the Trust will be in the form of practical advice to the person who has parental responsibility on making arrangements or in providing such a person with financial assistance towards making such arrangements. In deciding whether or not to exercise its powers under Article 33(2) to make arrangements or to assist in making arrangements or to provide financial assistance, a Trust must at all times act to promote the welfare and best interests of the child.

Children in the care of a Trust

- 12.3 A Trust may only arrange for, or assist in arranging for, any child in its care to live outside Northern Ireland with the approval of the court (Article 33(1)). An order under Article 33(1) does not, in itself, have the effect of automatically revoking the care order. The order continues in existence though its terms would not be enforceable outside Northern Ireland. It is open to a court, on application, to discharge the order under Article 58. Where a Trust does not apply



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to have the order discharged, it should make arrangements with the appropriate agency in the country to which the child is going to provide support and supervision of the placement.

12.4 Article 33(3) states that the court shall not give its approval unless it is satisfied that:

- living outside Northern Ireland would be in the child's best interests;
- suitable arrangements have been, or will be, made for his reception and welfare in the country in which he will live;
- the child has consented to living in that country; and
- every person who has parental responsibility for the child has consented to his living in that country.

12.5 Where the court is satisfied that the child does not have sufficient understanding to give or withhold his consent, it may still give its approval if the child is to live in the country concerned with a parent, guardian, or other suitable person (Article 33(4)). Proceedings under Article 33(1) are specified proceedings for the purposes of Article 60. A guardian *ad litem* and/or a solicitor will be appointed by the court unless it is satisfied that it is not necessary to do so in order to safeguard the interests of the child.

12.6 Where a person whose consent is required fails to give his consent, the court may still give its approval if it is satisfied that the person:

- cannot be found;
- is incapable of consenting; or
- is withholding his consent unreasonably (Article 33(5)).



Matters for consideration and information required prior to decisions about arrangements for a child to live abroad

- 12.7 When it is proposed that a child looked after by a Trust should live abroad it is essential that all the relevant information is gathered together for consideration (by the court or the Trust) including proposed arrangements to ensure that the child's welfare will be safeguarded and promoted. Whether a Trust is arranging or assisting in arranging for a child provided with accommodation to live abroad or is making an application for the court's approval to the arrangements for a child in care to live abroad, similar matters have to be considered in light of all relevant information.
- 12.8 There are profound implications for all those involved in a move abroad, but particularly so for the child. Careful consideration needs to be given to the balance to be struck between gaining a settled family life against the loss of familiar people and surroundings. The main matters for consideration and information to be gathered are listed below. This list is not exclusive and there may be other relevant matters to be considered according to individual circumstances.
- 12.9 Information should include:
- a social history of the child and his family and, where different, the proposed carer(s) including details about the child's period in care or during which he was provided with accommodation, his placements and any special needs that he may have;
 - details of planning for the child to live abroad and any preparatory work undertaken with the child to show that he is fully aware of the implications of living in another country. (This could include documentary and photographic records of his life in Northern Ireland to take with him when he moves abroad as an aid to later understanding of his origins);
 - a copy of a report on the home conditions in the place to



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which the child is to go. Where the child is to join a carer who is already abroad, the report must give sufficient background details about that person's circumstances and suitability. Where practicable a Trust should send the child's social worker to visit the household of the proposed carer in order to conduct further enquiries;

- arrangements made for the child's schooling including arrangements to ensure that any special educational needs of the child will be met where appropriate;
- arrangements to meet any specific health needs including any mental incapacity or physical disability from which the child may suffer;
- for the child subject to a care order, confirmation that the local social services agency overseas has confirmed in writing that it would be willing to supervise the proposed placement of the child and any details of its plan. This should include written confirmation that it will safeguard the child's welfare in the event of the placement breaking down and notify the relevant Trust if this happens. Where the care order is to remain in place details will be required from the overseas agency that a system of supervision will be in place to enable the Trust to carry out its obligations under the relevant Placement Regulations and the Review of Children's Cases Regulations;
- information about the child's views on the proposed emigration where he is of sufficient understanding to express an opinion. Where the child is of sufficient understanding, information should be provided that he consents to the proposed plan to live abroad or the reasons why he does not consent;
- information on the parent's views, or the views of anyone else with parental responsibility on the proposed plan for the child to live abroad and whether or not they consent, or, if it is



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impracticable to consult them, an explanation to this effect;

- the Trust should confirm that the child's passport and any relevant emigration and visa requirements are in order;
- where the care order remains in force details of the Trust's contingency plans to safeguard the child's welfare in the event of the placement breaking down;
- an outline of the proposed travel arrangements. In the case of a younger child arrangements should be made for someone known to the child to travel with him.

Contact

12.10 Discussions should take place with the parents of the child or anyone else with parental responsibility for him and any relative or friend of the child (unless it is not reasonably practicable or consistent with the child's welfare to do so) about arrangements for contact with the child if the proposed plan is implemented. A Trust must address the contact implications for the child with any parent or person with parental responsibility. It will need to consider alternative forms of contact and formulate possible solutions so that it can inform the court as to what can be achieved to meet the child's best interests. Contact orders under Article 8 where the care order is to be discharged in the event that the court makes an order under Article 58 or Article 53 (where the care order is to remain in place) may be applied for by any of the appropriate parties. Any potential applicant will need to be advised however, that such an order, even if granted, is unenforceable outside Northern Ireland.

Appeals against court decisions

12.11 Where a court decides to give its approval to a Trust's arrangements for the child to live abroad each person with parental responsibility for the child may appeal against the court's decision. The court's decision will not have effect where an appeal is outstanding, or if an appeal has not been made, during the period in which an appeal may



be made. In Article 33(7) “the appeal period” means:

- where an appeal is made against the decision, the period between the making of the decision and the determination of the appeal; and
- otherwise, the period during which an appeal may be made against the decision.

Children looked after by a Trust who have arrived in Northern Ireland from abroad

12.12 Where a child who has arrived in Northern Ireland from abroad and is in the care of a Trust then Article 33(1) will apply. Where a child who has arrived in Northern Ireland from abroad and is accommodated by a Trust, Article 33(2) will apply providing that there is no expectation of that child immediately going out of the country again.

Inter country adoption

12.13 Article 58 of the Adoption (Northern Ireland) Order 1987 (which requires authority for the taking or sending abroad for adoption of a child who is a British subject) shall not apply in the case of any child who is to live outside Northern Ireland with the approval of the court given under Article 33(6) of the Children Order.

Advice from court and direction appointments

12.14 Where a Trust is in doubt about the need to apply to the court for consent to a plan for a child to live abroad, it should seek the advice of the court. Trusts should also be aware of the availability of directions appointments. This would clarify any doubts and also serve to get directions as to the type of report that the court deems necessary to the particular proceedings.



**CHAPTER 13: CHILDREN PRIVATELY FOSTERED –
STATUTORY REQUIREMENTS**

- 13.1 This section is about private fostering arrangements and the regulatory, supervisory and advisory roles of the Trusts. The relevant legislation is set out in Article 35 and Part X of, and Schedule 5 to, the Children Order. Regulations made under Part X of the Children Order are included in Annex H.
- 13.2 The Children (Private Arrangements for Fostering) Regulations exercise the powers contained in Articles 108(2) and 112 by requiring that Trusts satisfy themselves about certain matters regarding the welfare of privately fostered children (regulation 2), that Trusts are to visit privately fostered children on specified occasions (regulation 3), about notifications by prospective and actual foster parents to Trusts (regulation 4), by former private foster parents (regulation 5), other notifications (regulation 6) and the form of notifications (regulation 7).
- 13.3 Referring to the welfare of privately fostered children, the Children Order states that every Trust shall satisfy itself that the welfare of children who are privately fostered with the Trust's area is being satisfactorily safeguarded and promoted and ensure that such advice is given to those caring for them as appears to the Trust to be needed (Article 108(1)). Private fostering is the arrangement usually made between the parent and the private foster parent, who becomes responsible for caring for the child in such a way as to promote and safeguard his welfare.
- 13.4 The role in each Trust is to satisfy itself that the arrangements are satisfactory and that the private foster parents are suitable; A Trust does not approve or register private foster parents. A proper balance, therefore, needs to be maintained between parental responsibilities and statutory duties towards private foster children.
- 13.5 "Foster Parents" may more appropriately be called foster carers or care givers in some circumstances and schemes. However, this guidance, to be consistent with the primary legislation and the regulations, uses the legal, familiar and widely-used term "foster



parents”.

Legislative provisions

- 13.6 Part X of the Children Order contains provisions relating to private arrangements for fostering children. Article 106 provides the definitions:
- (1) “foster a child privately” means look after the child in circumstances in which he is a privately fostered child; and “privately fostered child” means a child who is cared for, and provided with accommodation by, someone other than –
 - (a) a parent of his;
 - (b) a person who is not a parent of his but who has parental responsibility for him (Article 5, 6 and 7); or
 - (c) a relative of his.
 - (2) A child is not a privately fostered child if the person caring for and accommodating him –
 - (a) has done so for a period of less than 28 days; and
 - (b) does not intend to do so for any longer period.
 - (3) Paragraph (1) is subject to –
 - (a) the provisions of Article 90, 91 and 95; and
 - (b) the exceptions made by Article 107.
 - (4) In the case of a child with a disability, paragraph (1) shall have effect as if for “16 years” there were substituted “18 years”.
- 13.7 (1) A child is not a privately fostered child while he is being



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looked after by a Trust or is in the care of any person –

- (a) in premises in which any –
 - (i) parent of his;
 - (ii) person who is not a parent of his but who has parental responsibility for him; or
 - (iii) person who is a relative of his and who has assumed responsibility for his care,

is for the time being living :

- (b) in any children's home;
 - (c) in accommodation provided by or on behalf of any voluntary organisation;
 - (d) in any school in which he is receiving full-time education;
 - (e) in any residential care home;
 - (f) in any hospital (including a private hospital) or nursing home; or
 - (g) in any home or institution not specified in sub-paragraphs (b) to (f) but provided by the Secretary of State, a government department or a prescribed public body.
- (2) Sub-paragraphs (b) to (g) do not apply where the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the establishment mentioned in the sub-paragraph in question.



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- 13.8 A child is not a privately fostered child while he is living with any person
- in compliance with a probation order which includes a residence requirement.
- 13.9 A child is not a privately fostered child while he is committed to the care of a fit person under section 74 of the Children and Young Persons Act (Northern Ireland) 1968 or he is living with any person in compliance with a supervision order under that section which includes a residence requirement.
- 13.10 A child is not a privately fostered child while he is liable to be detained, or subject to guardianship, under the Mental Health (Northern Ireland) Order 1986.
- 13.11 A child is not a privately fostered child while –
- (a) he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of –
 - (i) Article 3 of the Adoption (Northern Ireland) Order 1987; or
 - (ii) section 1 of the Adoption Act 1976; or
 - (iii) section 1 of the Adoption (Scotland) Act 1978;
 - (b) he is a protected child as defined in Article 2(2) of the Children Order.
- 13.12 The welfare of privately fostered children is addressed in Article 108. Sub-paragraph (2) of Article 108 empowers the Department to regulate how Trusts carry out their duties to privately fostered children while Article 112 provides for regulations requiring notification of a child who is or is proposed to be fostered privately. Article 111 provides Trusts with powers to impose requirements in carrying out their duties under Article 108. A Trust can impose

requirements on the person who is or intends to privately foster a child as to:



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- (a) the number, age and sex of the children who may be privately fostered by him (such a requirement would be additional to the generalities of the “usual fostering limit” – of three children – described in Schedule 5 to the Children Order);
- (b) the standard of accommodation and equipment to be provided for them;
- (c) the arrangements to be made with respect to their health and safety; and
- (d) particular arrangements which must be made with respect to the provision of care for them, and it shall be his duty to comply with any such requirement before the end of such period as the Trust may specify unless, in the case of a proposal, the proposal is not carried out.

13.13 Article 111 provides that any requirement should be notified in writing with reasons and that the notification should inform the person of his right to appeal (contained in Article 113) and the time limit for doing so.

13.14 Article 109 deals with disqualification from being a private foster parent and provides for regulations which set out the circumstances in which this may occur and the notices that should be given. The regulations – The Disqualification for Caring for Children Regulations – are included in Annex 1. A power to prohibit private fostering is contained in Article 110. Article 117 sets out details of the offence committed if requirements of the Children Order and regulations are not met.

Summary of statutory requirements

Notification

13.15 A proposal to foster a child privately must be notified to the Trust in whose area the fostering will take place. The detailed requirements



of notification are set down in the regulations. Notification has to be given by the prospective private foster parent and any other person who is involved in the arrangement. A parent of the child who is to be privately fostered must also notify the Trust if he knows of the arrangement even if he is not involved directly in making the arrangement.

Welfare of the child

- 13.16 Responsibility for safeguarding and promoting the welfare of the privately fostered child rests with the parent. Trusts are required to satisfy themselves that the welfare of privately fostered children in their area is satisfactorily safeguarded and promoted. They must also ensure that private foster parents are given advice, where it appears to the Trust to be needed (Article 108(1)). The regulations set out the circumstances in which a Trust should visit private foster children and how the Trust should carry out its functions in respect of these children.

Prohibitions and requirements

- 13.17 Prohibitions may be imposed by a Trust if a person is not suitable to foster a child privately, the premises are not suitable for fostering or it would be prejudicial to the welfare of the child for him to be or continue to be fostered by the person in the premises concerned (Article 110(1)-(3)). Regulations also specify the circumstances in which a person is disqualified from privately fostering a child without the consent of a Trust (Article 109).
- 13.18 If a Trust is not satisfied about the welfare of a privately fostered child, it should inform the parents of those have parental responsibility for the child of its concerns. Consideration should also be given to the need to invoke child protection procedures to assess the risks to the child and to devise appropriate child protection action plans. The Trust must also consider whether it should exercise any of its functions under the Children Order (Article 108(5)). A Trust may decide to impose requirements or even a prohibition on the private foster parent; the duty to investigate under Part VI of the



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Children Order may be necessary. If a Trust needs to remove the child, it may consider applying for an emergency protection order or a care order. Unless it would not be in the best interests of the child concerned, it must take reasonable steps to ensure that the child is looked after by a parent or relative of his or someone else who exercises parental responsibility for him (Article 108(5)).

- 13.19 Where a Trust makes a decision about a requirement, prohibition or a disqualified person, an appeal may be made to the court within 14 days of notification of that decision (Article 113). An offence may be committed if there is a failure to notify a Trust of private fostering arrangements, breaches of requirement, prohibitions and disqualifications, and obstruction of powers of entry (Article 117). An application for a search warrant under Article 178 may be necessary to support the power of entry.

Limit on the number of foster children

- 13.20 The provisions of Schedule 5 to the Children Order prescribe the usual fostering limit of not more than three children. This provision includes a foster parent who fosters a child privately. More detailed guidance on the number of children in foster homes and exemptions to the provision is contained in Chapter 4.



CHAPTER 14: PLACEMENT OF PRIVATELY FOSTERED CHILDREN

Parental responsibility

- 14.1 Parental responsibility is a key provision of the Children Order and is discussed in more detail in **Volume 1: Court Orders and other Legal Issues**. Because parents carry the prime responsibility they should be encouraged to participate in and mainly initiate all the decision-making processes in the placement. It is most important for the wellbeing of the child that the parent provides the prospective private foster parent with as much information about the child as possible, including health record, diet preferences, school records, hobbies, religion, ethnicity etc.
- 14.2 A person, such as a private foster parent, who has care (ie “actual custody”) of a child for whom he does not have parental responsibility is empowered to do what is reasonable in all circumstances to safeguard and promote the welfare of the child (Article 6(5)). A person with parental responsibility, such as the parent of a child, may arrange under Article 5(8) for the private foster parent to meet that responsibility, by delegating responsibility, for example, for consent to medical treatment. Such an arrangement may prove useful in situation where the parent of the child is unable to exercise his responsibilities. However, under Article 5(10), such an arrangement does not affect any liability of the person with parental responsibility which may follow from a failure to meet that responsibility.
- 14.3 Parental responsibility is retained by the parents. How they exercise this is a matter for agreement with the private foster parent. Although it may suit the parents and private foster parents that the former fades from the child’s life, this drift could leave the position of the child insecure. Foster care however, should never be regarded as a “back door” to adoption. Frank discussion is important is important between all parties including the child, if practicable. If plans change, the reasons given for the change and the nature of the revised arrangements should be clearly understood by all parties, including the child.



- 14.4 If the parents are falling short of their responsibilities, eg failing to pay maintenance or to keep in touch, the social worker should try to locate the child's parents and find out if there is a problem, give advice and take appropriate action as necessary.

Purpose and duration of arrangement

- 14.5 The purpose and intended duration of private fostering needs to be clearly established by the Trust prior to the placement and details should be included on the notification. It should be reviewed on every visit so that any change can be anticipated to enable parent, child and other carers to be involved and consulted, thus helping to avoid unplanned moves or drift. Where it is likely that any difficulties will be resolved by the child being moved precipitately, a requirement that the Trust should be informed in advance should be considered so that action can be explored.

Child development

- 14.6 The child's physical, intellectual, emotional, social and behavioural development would be expected to include appropriate and sufficient diet, exercise, play, intellectual stimulation, identification of abilities and disabilities, help (where necessary) with: language development, child's identity and self esteem, relationships, social skills and behaviour, ensuring that his needs are appropriately assessed and satisfactorily met and his views heard.

Wellbeing

- 14.7 Emotional wellbeing is made up of a number of factors, including:
- the quality and permanence of previous care and relationships;
 - how separation and loss are being handled. Both parents and private foster parents may need advice;
 - the amount of continuity in his life, ie whether only part of his life has changed or his total environment. The passing on of



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information about likes, habits, experiences and history is important here;

- his sense of self worth which comes from being loved, respected and accepted as an individual in his own right and a sense of belonging to his new family and social setting and not being discriminated against;
- his self image and sense of identity, including ethnicity, knowing who his parents are and having a consistent name. Private foster parents should address the child using the name given by his parents. The parents should be encouraged to leave photos of themselves and family and keep the child up-to-date with happenings in the family and also impart background information to the child direct and or through the private foster parent. The private foster parent should encourage this as well as contact with any siblings also fostered, the family and significant people from the past.

14.8 Disturbed behaviour may be a reflection of emotional difficulties which in turn may be related to past or present experiences. It is an indication that all is not well and an assessment of the problems is needed so that appropriate advice can be given and if necessary, action taken. The happiness of the child, quality and comfort of relationships, whether he is insecure or confused, are also indicators of emotional state as is the reaction and attitudes of the private foster family to the child and his needs.

14.9 As much information as possible about the child and his needs should be shared by the parents with the prospective private foster parents before placement so that they can measure the task they propose to take on.

14.10 Advice can be given on appropriate play, nursery school or playgroup experience, leisure activities and experiences that will enhance his feeling of self worth and identify and stimulate his intellect.

14.11 If the child has special needs, or is "in need" within the definition of



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the Children Order, he should receive the appropriate services.

Further guidance on services to be provided for children in need and those with a disability is contained in **Volume 2: Family Support, Child Minding and Day Care** and **Volume 5: Children with a Disability**.

Religion, culture, language and racial background

- 14.12 Regulation 2(2)(c) of the Children (Private Arrangements for Fostering) Regulation makes specific reference to the needs of the child arising from religion, culture, language and race and a Trust's duty to satisfy itself that these needs are being met by the particular arrangements made for fostering the child.

Financial arrangements

- 14.13 Prospective private foster parents should have realistic expectations about costs to adequately maintain a child. They should also be clear about how far they are prepared to contribute to the child's maintenance (if at all). In any event they should have sufficient resources to tide over any gaps in maintenance payments, at least temporarily, to give time for plans to be made without the child being summarily moved. Exceptionally, action by the Trust could be considered to assist the private foster family through a short period of financial hardship which was simultaneous with a fall in maintenance payments. Such payments can be recovered. Any entitlement to social security benefits (or possibly increases in respect of the child) should also be taken into account.

Suitability of accommodation

- 14.14 Article 108(3) requires a Trust to inspect the premises where a privately fostered child is being, or is proposed to be, accommodated and to satisfy itself about the suitability of the accommodation. The type of accommodation used to privately foster a child will vary considerably and the Trust should decide whether the standard of a particular accommodation satisfies criteria for suitability, having regard to the child's age and welfare.



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14.15 A Trust should refer to Volume 2 as well as the following points, when deciding on the suitability of accommodation and those proposing to privately foster a child should be made aware of the factors being considered:

- fire safety (smoke detectors and matches stored in a safe place), electrical sockets, windows, floor coverings and glass doors;
- cooking facilities and safety in the kitchen or cooking area;
- equipment, such as cots, should be British Standard approved;
- use of stair gates;
- safe storage of medicines and dangerous household substances;
- presence of pets and arrangements for their control;
- quality of transport – car seats, safety belts, etc;
- washing and toilet facilities;
- outside play space, access to garden and safety within it and access to the road and, where appropriate, farm facilities;
- dampness and extremes of temperature;
- living and sleeping facilities and the effect of possible overcrowding.

14.16 Where a child is to share a bedroom with another member of the household, particular attention should be given to ensuring that the arrangements will not be prejudicial to his welfare. It is important for a child to have his own bed. Under normal circumstances a private



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foster child, over the age of two, should not share a bedroom with a teenager, the private foster parent or other adult member of the household.

Health care

- 14.17 Health care should be an essential part of a parent's responsibility in safeguarding and promoting the welfare of the child. Children of certain racial origins or from certain parts of the world may have particular health care needs and full consideration should be given to this aspect of the child's care. If a child is well and active then no special screening may need to be undertaken, over and above routine screening and surveillance offered to all children. If, however, the child is unwell, racial or ethnic factors should be taken into account as they may be the key to the child's ill health. For example, children of particular racial origins or from the travelling community may be at risk from particular diseases such as tuberculosis, hepatitis B or congenital diseases.
- 14.18 Children with a disability may have been receiving medical service from specialist units and special arrangements may be necessary to ensure continuity of care and treatment (regulation 2(2)(b) of The Children (Private Arrangements for Fostering) Regulations refers). If the parents hold the personal child health record (PCHR) this should be handed to the private foster parent. The parents of the child to be privately fostered should make known the child's medical history to the prospective private foster parents and the Trust.

Education

- 14.19 For school-age children, remaining at the same school offers not only continuity of education but also continuity in an important part of the child's daily life. The level of disruption caused by any proposed, or actual, change in schools will have to be carefully considered by the social worker.
- 14.20 Regulation 2(2)(g) of The Children (Private Arrangements for Fostering) Regulations places an obligation on the Trust to satisfy



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itself about arrangements for the child's education and that the education and library board has been informed of the private fostering arrangements.

Physical care

- 14.21 Expectations regarding the physical care of the child should be established from the first contact between parents and private foster parents and are best achieved through cooperation, encouragement, availability of advice and mediation, all of which focus on achieving the best interests of the child.
- 14.22 Help and advice should be made available to private foster parents on all aspects of child care. Requirements can be made and advice given regarding safety and equipment, eg British Standard cots and pushchairs. If the overall standard of care remains unsatisfactory then appropriate action, involving the parents, should be taken.

Further inquiries

- 14.23 As well as the initial assessment including the taking up of personal references, the suitability of a private foster parent needs to be monitored at intervals. A visit may be needed upon notification of a change in the household, conviction or other circumstance. At each visit inquiries should be made about any changes as the requirement to notify may have been overlooked by the private foster parent. Regulation 3 of The Children (Private Arrangements for Fostering) Regulations places a duty on the officer making a visit to provide the Trust with a written report.

Advice to the private foster parent

- 14.24 Regulation 2(2)(j) of The Children (Private Arrangements for Fostering) Regulations places a duty on a Trust to satisfy itself that the private foster parent is being given any necessary advice.
- 14.25 If the private foster parent is not receiving necessary advice, the social worker should help to rectify the situation. "Necessary" advice



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pertains to all matters detailed under the Children Order (including Schedule 5 to the Order) and the regulations. The advice should also include the wider implications of fostering such as racial harassment.

14.26 Advice might also include the desirability of taking out public liability insurance cover. If private foster parents carry household insurance they should inform the insurance company that the household includes private foster children.

14.27 Advice to private foster parents can be given in a number of ways:

- individually by the social worker, health visitor or other professional;
- in a “self-help” group, learning from other private foster parents. This can be particularly useful if it includes some experienced private foster parents with good standards of care who can act as role models to others;
- via “Drop In” centres, possibly with child minders;
- by being linked to the provision of resources, eg a toy library or equipment loan scheme, or alongside a play group;
- training set up specifically for private foster parents or generally for all foster parents, child minders or others.

Contact with the child’s family

14.28 Where the placement will not be, or is not, within easy reach of the child’s family, the Trust should explore whether firm arrangements can be made to facilitate contact. Contacts with members of the child’s extended family who are living in the United Kingdom or Republic of Ireland should also be encouraged. Where the proposed or actual private foster parent is from a different religious, racial or cultural group to that of the child, the Trust should make the private foster parents aware of the need to make provisions that would



enable close links to be maintained with the child's heritage (regulation 2(2)(c) and (k) of The Children (Private Arrangements for Fostering) Regulations refers).

- 14.29 The need for contact with significant people in the child's earlier life should be thoroughly explored at the initial inquiry stage. Parents and private foster parents may need advice on the importance of continuing links for the child's emotional welfare.
- 14.30 Arrangements for contact with the parents need to be clear and honoured so that the child knows where he stands and is reassured that his family still care. Equally, arrangements for contact with siblings, relatives, persons with parental responsibility and others should be organised and the arrangements set down in writing. Arrangements for the private foster parent to contact the parents should also be set down. If the adult carers are working together then the child is more likely to feel secure.
- 14.31 At every visit the social worker should inquire about the existing arrangements and, if appropriate, offer advice and help in resolving any difficulty, even, if necessary, providing a venue for families to meet. Normally the financial costs are a matter between the parents and private foster parents but financial assistance could be considered under Article 18 if this supports a child in "need" as defined by the Children Order.
- 14.32 The child's parents may need to be advised on the desirability to keep siblings together if possible – unless a child has particular needs which have to be met separately. In any event the arrangements between parents and private foster parents should ensure that contact between siblings is maintained where possible.

Wishes of the child

- 14.33 The child's views should always be sought, subject to the child's ability to understand. This may create anxiety in the private foster parent and time may be needed to deal with this. Also, the social worker should be clear on how confidences should be handled. The



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child's views on his becoming, or actually being, a privately fostered child needs to be taken into account when placement is being considered. The social worker should be particularly aware that there may be good reasons why the child's views are different from those of his parents, or any other person with parental responsibility for him and, in the case of a child who is privately fostered, the views of the private foster parent. The more mature the child, the more fully he will be able to enter into discussion about plans and proposals and participate in the decision –making process. With young children too, the social worker should make efforts to discover their true feelings.

- 14.34 The social worker should take all reasonable steps to ensure that the principle of partnership with the child's parents and private foster parents is maintained at all stages of the consultations. All children need to be given information and explanations so that they are in a position to develop their own views and make choices. Providing children with reassurance and helping them over their anxieties is essential if their welfare is to be safeguarded and promoted. If this is sensitively handled, children will not be made to feel that the burden of decision making falls totally upon them.
- 14.35 Where the child has communication difficulties, the social worker needs to ensure that all necessary means are employed to enable the child to express his views, feelings and consent (or not) and for those views to be considered. Such means could include consulting someone who has the appropriate communication skills such as sign language and making use of Makaton or Bliss symbols – a language of signs used by people with severe learning difficulties. In the case of very young children their wishes and feelings can often be established indirectly by observation and through play or, in the case of a very disturbed child, through any therapy which the child may be receiving.
- 14.36 In the case of a child with a limited understanding of English, an interpreter may be required. The importance of a child of maintaining his first language should be addressed since eventual return to his family or community is made even more difficult if the is unable to



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use his "own" language.



CHAPTER 15: SUITABILITY OF THE PRIVATE FOSTER PARENT

Inquiries

- 15.1 Inquiries are to be conducted by a Trust for the purpose of determining the suitability of persons who propose to foster a child privately, or are privately fostering a child whom they are already caring for and providing accommodation. The inquiries must always be linked to the duty of a Trust to satisfy itself that the welfare of the child is being satisfactorily safeguarded and promoted while privately fostered (Article 108(1)). Determining the suitability of the person and his accommodation and ensuring that the arrangements are satisfactorily promoting and safeguarding the child's welfare can best be accomplished by:
- consulting the person who proposes to foster a child privately and the parents (or person with parental responsibility) about the reasons to have him privately fostered;
 - making advice available to the person who is to foster a child privately.
- 15.2 Discussions with the person who is fostering a child privately should be frank. It should always be made clear by the social worker that the welfare of the child is paramount. The inquiry process should provide opportunities to enable a prospective private foster parent to opt out of the proposed arrangements. The person who is fostering or proposing to foster a child privately should be given a clear understanding as to the purpose of the inquiries so that he fully comprehends the duty of the social worker to determine:
- the suitability of the person and his household;
 - the suitability of the accommodation in which the child is to be privately fostered;
 - that neither (a) or (b) above would be prejudicial to the



welfare of the child;

- that arrangements or the proposed arrangements are likely to provide a safe and stable environment for the child;
- that arrangements exist for contact with parents; and
- that religious, linguistic and cultural practices are promoted.

A Trust's inquiries into establishing suitability of the private foster parent can take place before a placement or after a placement has begun and should take particular account of the aspects covered in paragraphs 15.3 to 15.14.

Police records

- 15.3 Persons proposing to foster a child privately should provide written consent for police records to be checked for previous convictions (a specimen consent form authorising a check of police records is provided at Annex J). The Trust should check its own records of the person and other members of the household and liaise with other Trusts if the proposed foster parent has only been in the present Trust's area for a short time. A check should also be made to the DHSS Pre-Employment Consultancy Service (PECS) Register. A record of convictions will not necessarily preclude the person from fostering a child privately, but will require careful consideration in consultation with senior staff. The disqualification provisions contained in Article 109 and the Disqualification for Caring for Children Regulations are relevant in this respect.
- 15.4 The police should also be asked to check the records of all members of the household. Unless members of the household agree to police checks being made the Trust will not be able to satisfy itself as to the welfare of the child. Trusts should note that exceptions to the orders in the Rehabilitation of Offenders (Northern Ireland) Order would apply to these checks.



Household relationships

- 15.5 The social worker should visit on at least one occasion to meet the entire household. The extent to which other members of the household may participate in the daily care of a privately fostered child is an important consideration, as are demands made by other members of the household on the private foster parent or prospective private foster parent. The impact on family life of fostering a child privately should be discussed fully with that person and the whole family. The extent of contact with persons staying with the family should also be explored.

Parenting capacity

- 15.6 The social worker should form a view on the parenting capacity of the person proposing to foster a child privately and should consult with appropriate agencies. The health visitor may, for example, be able to provide insights into the person's experience of caring for children of different age groups, children with special needs or caring for children in general. The person proposing to foster a child privately should be made aware that such views will be sought.

Religion

- 15.7 Attention may need to be given to the expectations of the privately fostered child participating in the religious life of the person and his household and whether this would be compatible with the expectations of a child and his parents

Ethnic and cultural background

- 15.8 In circumstances where it is known that a child comes from an ethnic minority group or from a particular cultural background, the social worker should seek to establish whether the person proposing to foster the child privately has an understanding of the particular culture and knowledge of the child's language (see guidance on religion, race, culture and linguistic needs, paragraphs 17.18-17.21). Social workers should explore the extent to which the prospective



private foster parent is prepared to develop such understanding and give advice as appropriate.

Parental visits

- 15.9 The private foster parent's or prospective private foster parent's attitudes and expectations should be explored concerning his promoting contact between the child's parents, or person with parental responsibility, and his willingness to facilitate visits by parents and relatives to the private foster home for the duration of the placement. It is essential that the person fostering or proposing to foster a child privately is aware of the implications of caring for other people's children and of the need to work in partnership with the child's parents.

Life style

- 15.10 The social worker will need to determine the standard of living and "life style" of the private foster parent and, for example, should explore the type of leisure activities and other interests pursued and how the type of employment affects family life. Where the person fostering or proposing to foster a child privately is employed outside the home, arrangements should be made by the private foster parent to ensure proper care for the child after school and during sickness and holidays. Account should also be taken of the private foster parent's willingness to provide a child from an ethnic minority community with a diet which is familiar to him, including food which may be part of a religious observance.

Education

- 15.11 The social worker should explore the private foster parent's or prospective private foster parent's attitudes and expectations in relation to a child's education. The objective should be to establish a view as to a person's:
- understanding and recognition of the need to provide educational support to a privately fostered child, including a



commitment to ensure the child's regular attendance at school;

- ability to cope with the challenge in providing support to a child with special educational needs.

15.12 The social worker should discuss these issues with the private foster parent and provide information whenever appropriate about the range of statutory and voluntary agencies which can offer support.

Discipline

15.13 **The social worker should ascertain the private foster parent's views on discipline with particular regard to the issue of corporal punishment which is not regarded as an appropriate means of correcting children.** The term "corporal punishment" should be taken to cover any intentional application of force as a form of punishment, including slapping, pinching, squeezing, shaking, throwing objects and rough handling. It would also include punching or pushing in the heat of the moment in response to violence from children. It does not prevent a person taking necessary physical action where any other course of action would be unlikely to avert immediate danger of personal injury to the child or to another person, or to avoid immediate danger to property. Verbal abuse, derogatory remarks and pointed jokes can cause psychological harm to the child.

15.14 A child should not be refused meals or drinks as a form of punishment. The enjoyment derived from eating and drinking is well established and it is fundamental to child's physical and emotional development. Meal times are also an important social occasion in the life of a child. Deprivation of food and drink should be interpreted to include the denial of access to the amounts and range of food and drink normally available to children in the home (but would not include instances where specific food or drinks have to be withheld from a child on medical advice). Similarly, restriction of visits to a child from the family and friends of a child who is privately fostered should not be used as punishment. (The National Foster Care Association



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has produced a useful booklet on the subject of discipline, entitled "Managing Behaviour").



CHAPTER 16: NOTIFICATIONS TO TRUSTS BY THOSE INVOLVED IN PRIVATE FOSTERING

Notifications by prospective and actual private foster parents

- 16.1 Except in an emergency, a person who proposes to foster a child privately and is not yet providing accommodation for that child is required to notify the Trust not less than six weeks and not more than thirteen weeks before he receives the child.
- 16.2 The requirement is regulation 4(2) of The Children (Private Arrangements for Fostering) Regulations is that any person receiving a child in an emergency or already caring for and providing accommodation for a child, when he became a privately fostered child, must notify the Trust for the area in which the child is privately fostered, and should do so not more than 48 hours after the fostering arrangement begins. The notice must be given in writing. This requirement will often apply where the person was registered as a child minder, for a particular child aged under twelve for the first 28 days of placement, immediately after that 28 days has expired. When a Trust accommodates a child with a child minder in the discharge of its general welfare duty to promote and safeguard the welfare of the child, he becomes a looked after child subject to the regulations specified in Annexes A and F.

Emergencies

- 16.3 In some cases, such as in an emergency or where the child is already being privately fostered, it may not be possible to carry out extensive inquiries immediately. However, clear procedures should be drawn up for undertaking inquiries for children who are notified to a Trust in an emergency, or after the child is found in situ. A plan for conducting such inquiries should be implemented without undue delay. Once this process has been initiated, the parents or person with parental responsibility for the child, should be informed and appropriate notification forms sent.



Content of notice

- 16.4 The specific details required by Trusts which constitute a notification to foster a child privately are contained in regulation 4(3) of The Children (Private Arrangements for Fostering) Regulations.

Disqualification

- 16.5 Under Article 109 certain people are disqualified from privately fostering children. A Trust will need to conduct appropriate inquiries to determine whether a proposed, or actual, private foster parent is disqualified from private fostering, or whether any member of the person's household is disqualified from fostering a child privately. A Trust's legal advisers will need to be consulted to establish procedures when a person is found to be disqualified and on the procedures for handling appeals by a disqualified person as provided by Article 113(1)(c).
- 16.6 As an effective and efficient means of establishing whether or not a person is disqualified from fostering privately, a Trust may consider using a declaration form as shown in Annex J, and enable the person to give his written consent for inquiries to be made with other agencies.
- 16.7 A Trust can, in certain circumstances, give its consent to a person acting as a private foster parent who would otherwise be disqualified, but only if it is satisfied that a child's welfare would not be prejudiced by the private foster parent or prospective private foster parent or by a member of that person's household. In such circumstances the Trust shall give its written consent for the person to foster a child privately. Regulations made under Article 109 concerning disqualification are contained in Annex 1 to this volume.

Changes to circumstances

- 16.8 Regulation 4 of The Children (Private Arrangements for Fostering) Regulations requires private foster parents to notify the Trust in writing of certain changes in circumstance, in advance if practicable,



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but not more than 48 hours after the change, namely:

- any change of the private foster parent's address (if the private foster parent moves to another Trust area the Trust receiving the notice shall inform the other Trust of the new address);
- the full name, sex, religion, race and date of birth of the child and full name and address of:
 - (a) the parent(s);
 - (b) any other person with parental responsibility;
 - (c) any person from whom the child was, or is to be received;
 - (d) any person who begins or ceases to be part of his household;
 - (e) any new conviction, disqualification or prohibition of any person living in, or employed in the household;
 - (f) any subsequent proposals to foster a child privately;

and in doing so shall specify the matters covered in regulation 4(3)(a) to (f).

16.9 In notifying another Trust it is good practice to draw its attention to any important matters relating to the welfare of the child (eg a disability, difficulty or health problem) or the suitability of the private foster parent.

Notification by former private foster parents

16.10 If the child moves, the former foster private parents must notify the Trust in writing within 48 hours, stating the name and address of the person into whose care the child has been moved.



Reasons for termination

- 16.11 The return of the child to the parents is the usual reason for terminating private fostering arrangements.
- 16.12 If the child dies the private foster parent must notify forthwith the Trust and the person from whom the child was received. Whether or not this person has parental responsibility, the Trust should ensure that the parents are notified forthwith. The Trust may need to assist the private foster parent with the formalities and in any event will need to consider the implications of what has happened.
- 16.13 If there are particular concerns about the death of a child there may be a need for the Trust to refer to the Area Child Protection Committee (see **Volume 6: Cooperating to Protect Children** and the “Protocol for the Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse” – known as the Joint Protocol – which provides further guidance on this subject). The Trust should also notify the Department of Health and Social Services of the situation.

Further requirements

- 16.14 Under regulation 6(4) of The Children (Private Arrangements for Fostering) Regulations any parent of a privately fostered child, and any other person who has parental responsibility for the child, shall notify the Trust in whose area the child was privately fostered of the ending of the fostering arrangement.

Other notifications

Persons involved in private fostering arrangements

- 16.15 Under regulation 6(1) of The Children (Private Arrangements for Fostering) Regulations the Children Order places a duty upon any other person (such as a third party) who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately, to notify the Trust in whose area the child is to be



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fostered not less than six and not more than thirteen weeks before commencement of the arrangements.

Parent or other person with parental responsibility

16.16 The Children Order places a duty (regulation 6(2) of The Children (Private Arrangements for Fostering) Regulations refers) on any parent, or person with parental responsibility for a child, to notify the Trust in whose area the child is proposed to be privately fostered, if he knows about the arrangement (even if he is not directly involved), not less than six and not more than thirteen weeks before the fostering arrangements begins. The requirement for a child's parent, and any other person, to notify the Trust is expected to ensure a greater degree of protection for children. Particular attention needs to be paid to this process.

Changes to existing arrangements

16.17 Under regulation 6(4) of The Children (Private Arrangements for Fostering) Regulations any parent of a privately fostered child (an any other person who has parental responsibility for the child), must notify the Trust in whose area the child was privately fostered of any change in his address.

Form of notifications

Requirements

16.18 In devising an efficient notification system Trusts should pay particular attention to:

- publicising and making available advice and information to prospective private foster parents, parents and others, on the requirement to notify;
- the design and content of notification forms to reflect the requirements of regulation 4, 5 and 6;



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- a common, reciprocal approach with other Trusts on the management of notifications when the proposed foster child is living in another Trust's area or in another part of the United Kingdom.

Notification policy

Local arrangements

- 16.19 While the duty to notify the Trust lies with the persons specified in the regulations, Trusts will need to have an effective policy for handling the notifications including their formal acknowledgement. Other interests, particularly health visitors and schools, should be encouraged to liaise with Trusts about the existence of private foster children of whom the Trust may be unaware. This requires joint planning. In developing the policy, Trusts should see their role as monitoring and enabling with the aim of ensuring that the welfare of proposed, or actual, private foster children is satisfactorily safeguarded and promoted.
- 16.20 In the event of non-notification, the Trust needs to establish agreed procedures with its legal advisers on how to handle offences under Article 117.



Preparing the ground

- 17.1 Private foster parents and the child's parents should be aware of the importance of continuity of care and health care, and, indeed, all aspects of the child's life and share all relevant information. A child who moves from one geographic area to another should not miss out on diagnosis and treatment that would satisfactorily safeguard and promote his welfare. Private foster parents will need information about the child, the child's needs and history, medical background and the child's understanding of the reasons for and duration of the placement. Information on routines, capabilities, habits, fears, likes and dislikes and, where appropriate, sufficient information about the implications of a child's disability or learning difficulty, is essential if the private foster parent is to offer good quality continuity of care and help the child settle into his new home. At the same time, the child should be told as much about the prospective private foster parents as he is able to understand – eg interests of other children and location of the foster home.
- 17.2 The way the introduction to his new home is organised is important for the child's sense of security and acceptance of the change. A process of introduction helps to minimise the pain of separation. Private foster parents need to be prepared for disturbed behaviour which may follow.
- 17.3 To ensure the welfare of the child the private foster parent will need in addition to the points raised in paragraph 17.1 above, a clear, preferable written, agreement with the child's parents on finances, pattern of contact with them and expected duration of placement.

Health

- 17.4 A child needs to be in good health in order to ensure that a private foster placement does not prejudice his welfare or education experiences. Children of school age are included in health care provided under the school health service. Children aged under five



who are privately fostered should not miss out on the child health surveillance programme. Health checks are regularly offered at intervals prior to a child starting school. Private foster parents should make sure that they are informed by the child's parents about the child's health checks, vaccinations etc.

- 17.5 Appropriate arrangements should also be made between the Trust, the private foster parent and the child's parents for the personal child health record (PCHR) to be held by the person who has actual custody of the child. All private foster parents should have a working knowledge of, and skills in, first aid or be encouraged to obtain such knowledge and skills. Local branches or organisations such as the Red Cross or St John's Ambulance may offer useful sources of advice and training.

Child's medical history

- 17.6 Inclusion of a child's medical history supports the principle of health care being an integral part of safeguarding and promoting the welfare of the child.
- 17.7 In addition to basic details of the child – height, weight, etc, details of a child's medical history should include:
- immunisations given and dates including, where practicable, the results of any neonatal screening tests;
 - history relating to infectious diseases, with dates;
 - any episodes of in-patient hospital treatment, for any condition with dates, giving details where possible;
 - whether the child has, or is known to have, any congenital condition which has, or may have, medical implications and/or which necessitates ongoing health care;
 - whether the child is known to have any allergies, including allergies to any medication;



- current short term or long term medication and other treatments, including consultants involved in the treatments;
- information on any special dietary requirements or dietary restrictions.

Consent to medical examination or treatment

- 17.8 General medical consent, in respect of treatment for which the child himself is not capable of giving consent, to cover everyday treatment which may become necessary, should be given in writing to the private foster parent by the child's parents, or person with parental responsibility, at the commencement of the placement. It may be appropriate for the Trust to have copies of the consent.
- 17.9 Children of 16 and over give their own consent to medical treatment. Children under 16 may also be able to give or refuse consent depending on their capacity to understand the nature of the treatment; it is for the doctor to decide this. Children who are judged able to give consent cannot be medically examined or treated without their consent. The child's attention should be drawn to his rights to give or refuse consent to examination or treatment if he is 16 or over or, if he is under 16 and the doctor considers him to be capable of sufficient understanding, to give or withhold consent to the treatment in question. Young people should be encouraged to understand the importance of health care and to take responsibility for their own health.

Registration with general medical practitioner

- 17.10 Regulation 2(2)(f) of The Children (Private Arrangements for Fostering) Regulations requires that a privately fostered child should be included on the list of a general medical practitioner. Ideally, the child should remain with the family GP, if possible. Trusts should ensure that all privately fostered children are so registered. The child's parents, or person with parental responsibility for the child, should be given the name and address of the general medical practitioner with whom the child is registered. Regular visits to the



dentist for checks and treatment should form an integral part of the general health care of the child.

Medical examination

- 17.11 It is recommended good practice that, as with all children who live away from home, medical examinations should be arranged for a privately fostered child when he commences placement, or as soon as it is practicable to do so thereafter. Where a child has an incomplete medical history a requirement may be made under Article 111(1)(c) for further medical examinations to be carried out at specified periods. The medical officer may charge the natural parents for these examinations.

Services for children with a disability

- 17.12 Article 2 mirrors the definition of disability provided by the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978. It states that:
- “A child is disabled if he is blind or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed”.

Thus, a person with a disability qualifies for services before and after the age of 18.

- 17.13 Paragraph 3(1) or Schedule 2 to the Children Order requires Trusts to open and maintain a register of children with a disability in their area. Paragraph 7 of that Schedule placed a separate duty on Trusts to provide services for children with a disability designed to minimise the effect of their disability and give such children the opportunity to lead lives as normal as possible. The register and services should help in the identification diagnosis, assessment and treatment of privately fostered children with a physical and mental handicap or mental disorder and in overcoming limitations of mobility and communication. This may include provision of equipment such as



communication aids and interpreters.

- 17.14 In cooperation with relevant agencies, Trusts will need to consider the overall development needs of children with a disability who are privately fostered. Advice and help on home aids, equipment and adaptations can be obtained from the Disabled Living Foundation of the Royal Association for Disability and Rehabilitation. More detailed guidance is contained in **Volume 5: Children with a Disability**.

Circumcision

- 17.15 Regulation 2(2)(c) of The Children (Private Arrangements for Fostering) Regulations requires Trusts to satisfy themselves that a privately fostered child's needs arising from his religious persuasion, racial origin and cultural background are being met. In certain circumstances where children of particular ethnic and cultural backgrounds are privately fostered, Trusts will need to concern themselves with certain religious or cultural practices which are prohibited with the United Kingdom, for example, female circumcision.
- 17.16 In circumstances where a Trust has reason to believe that a child is likely to suffer significant harm as a result of female circumcision it should exercise its powers to investigate under Article 66 and consider the need to exercise any of its powers, for example under Article 67 (emergency protection).
- 17.17 Other than meeting the needs of therapeutic requirements, male circumcision is a religious, social and cultural practice and is not restricted to a particular ethnic or cultural minority. The operation is simple and straightforward and should, under appropriate conditions, pose no harm or danger to the health and welfare of the child. If, however, a parent requests a private foster parent to arrange circumcision, the foster parent should be advised that circumcision should be carried out in an environment which provides adequate safeguards by a properly qualified medical practitioner at a hospital or clinic.



Religion, racial origin, cultural and linguistic background

- 17.18 In seeking to satisfy themselves that a child's welfare is being satisfactorily safeguarded and promoted in the private foster home, the social worker needs to establish that the private foster parent is aware of differences between minority group children and the significance of religion and culture in relation to racial origin. It should not be assumed that the parents of the child and the private foster parent will have the same religion or share the same cultural background.
- 17.19 The quality and consistency of care a child receives in his formative years is crucial to his physical, intellectual, emotional, social and behavioural development. The practice among some ethnic minority families to place their children in private foster homes of a different race and culture may, in some instances, pose a contradiction for Trusts when carrying out their functions under regulation 2(2)(c) of The Children (Private Arrangements for Fostering) Regulations. In such circumstances the Trust should seek to establish the extent of the prospective private foster parent's understanding of the child's culture and willingness to become familiar with that culture.
- 17.20 Trust are encouraged to see that the private foster parent is advised about the provision of resources and facilities which could assist him meet the religious, cultural and linguistic needs of the child. This can be done, for example, by involving the voluntary sector, local religious groups and minority ethnic communities. The services of an interpreter may sometimes be required if private foster parents do not have sufficient communication skills in the child's language.
- 17.21 Trusts will need to be aware of the practical difficulties which such placements can present and be prepared to deal with them at an early stage to avoid problems for the future. However, the fact that such placements are by private arrangement means that Trusts should not be seeking to prevent them because of potential difficulties, save where other considerations justify the imposition of requirements or a prohibition.



Needs of siblings

- 17.22 The social worker should ensure that adequate arrangements are made for relationships between siblings to develop. Arrangements for the care of any brothers and sisters not included in the proposed or actual private foster arrangement need to be notified to the Trust (regulation 6(3)(b) of The Children (Private Arrangements for Fostering) Regulations refers).

Equal opportunities

- 17.23 Trusts should have approved equal opportunities policies. Private foster parents who are caring for children from a particular religious, racial or cultural group, should be encouraged to value and respect a child's background. Trusts will have to consider how advice and knowledge on equal opportunities, cultural issues, child care and health matters can be shared with private foster parents.
- 17.24 Trusts, in consultation with their legal advisers, should ensure that appropriate procedures are made for dealing with children who are privately fostered. All procedures should aim to ensure that services do not reflect or reinforce social and economic disadvantage or discrimination in a child's life.

Continuity and change

- 17.25 Advice to private foster parents and parents should include the importance of planned endings to fostering arrangements and preparing the child for the change. This is particularly important where the child is to move to a new placement and the Trust may decide to support a short-term placement under Article 18 if a child is in need, to give space for preparation and introductory visits.
- 17.26 As much continuity as possible should be maintained, eg continuing at the same school, remaining with the same GP, providing information on background, habits, interests, routines and needs. Also, private foster parents should be encouraged to maintain a photograph album for the child and a diary of significant events which



the child can keep when he moves on.

- 17.27 If a child has been placed in private foster care on a long-term basis this can create a serious dilemma for him when it is time to return home. Careful preparation for the child's return to his family will therefore be needed by both the private foster parent and the child's parents depending on the length of time the child has been away and the extent of changes within the family.
- 17.28 The need for continuity is equally critical at the end of the placement as at the beginning. Children often return to different addresses, an unfamiliar culture and new family members. The former private foster parents should be advised to pass on information to the parents on the habits, food preferences, interests, routines and connections developed by the child. Ideally, parents should be prepared for these changes and the possibility of disturbed behaviour while the child re-establishes himself in his family.
- 17.29 The private foster parent should always obtain the agreement of the natural parents prior to any move to another private foster parent. Depending on the circumstances the Trust may need to consider contacting, consulting or advising the parents directly, particularly as many "emergency" moves arise from disharmony between the parents and private foster parent, or disturbed behaviour on the part of the child.

Recording the child's development

- 17.30 It is good practice for the social worker to offer private foster parents advice about the information they should keep and the manner in which they should keep it, to be shared with the parents, and where appropriate, the Trust and the relevant education and library board's services. Such advice should cover:
- maintaining and updating the child's medical history, (with appropriate input from health personnel) and include notes/dates of visits to the GP, health clinic etc;



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- keeping a file of school reports;
- noting the dates and means of contact with the parents and other significant people in the child's life (visits, letters, phone calls);
- maintaining a financial record of monies received on behalf of the child's upkeep;
- noting the dates and nature of Trust contact;
- keeping a photograph album of significant events/people in the child's life;
- maintaining a life story book.

The role of Trusts

Trust's powers

- 17.31 Article 111 gives power to Trusts to impose requirements. These can be related to an individual or category of children, eg those over a certain age.
- 17.32 In any event reasons must be given for the imposition of requirements. The recipient has 14 days from when the notice is served to appeal to the court. It is therefore advisable to inform the private foster parent that a requirement is to be made in order to give time for any informal negotiations or accommodations to take place if it is consistent with the welfare of the child, thus preventing unnecessary appeals to court.
- 17.33 A requirement does not have effect while an appeal is pending. A court may dismiss the appeal or if not, can cancel, vary or allow more time for compliance.
- 17.34 Decisions to impose requirements should be taken by a Trust in accordance with established procedures. A Trust has the power to



remove, vary, or add requirements and will need to have a policy on how these decisions are to be made.

Supervisory visits

- 17.35 Regulation 3(1)(a) and (b) of The Children (Private Arrangements for Fostering) Regulations lays down the minimum visiting requirements by a Trust to the private foster home. The frequency of visits should be determined by the circumstances of the case but should not be below the requirements specified in regulation 3. The Trust must arrange a visit whenever reasonably requested by a child or private foster parent.
- 17.36 Visits should not be neglected because a placement is going well or is difficult. The social worker will not be equipped to identify, help or assess fully long-term situations if no care has been taken to establish a relationship with a child and the private foster parent.
- 17.37 Care needs to be taken to maintain the delicate balance between meeting the purpose of the visit and satisfying the regulations without unsettling the placement to the detriment of the child. This is easier where a way of working in partnership has been established at the beginning. The social worker should make clear to the private foster parent the purpose of the visit and the areas about which the Trust needs to be satisfied.

Purpose of visits

- 17.38 The purpose of visits includes:
- child protection. The overall standard of care should be observed. The child's bedroom should be seen on some visits, especially if there has been any change in the arrangements. If the Trust considers it appropriate, some visits should be unannounced. Occasionally other visits should take place when all members of the household are likely to be at home. The child, parents and private foster parent should feel free to get in touch with the social worker



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at any time;

- providing a link. The social worker's visits can provide encouragement to the maintenance or improvement of child care standards, taking account of regulation 2 of The Children (Private Arrangements for Fostering) Regulations;
- a check that requirements are being met and whether they need to be changed or cancelled;
- ensuring that the private foster parent receives necessary advice from the social worker or others, eg health visitor, GP, education, welfare rights etc. This advice can be given individually or in groups;
- inquiring how the arrangements with the parents are working and considering whether it would be appropriate for the Trust to intervene;
- satisfying the Trust that the welfare of the child is satisfactory.

Seeing the child alone

17.39 The first time the child is seen is often on the first supervisory visit. A check should be made to see if he is in need as defined under Part IV of the Children Order and the provision of any services facilitated. The child must be seen at each visit. The regulations provide for the child to be seen alone if considered necessary by the Trust. If desired, the visit should be carried out outside the foster home.

17.40 It is important to check with the child, as far as possible that the private fostering arrangements are in place and schooling and health care are being satisfactorily provided, and to advise on any settling-in difficulties. Guidance following an unsatisfactory care report is contained in paragraphs 17.43-17.47 below.



Written reports

17.41 After each visit, that Trust is required to ensure that the social worker who made the visit produces a written report. The report should indicate whether the child was seen and, if not, the reasons and also whether the child was seen alone. It should also comment on the child's welfare and if the placement is satisfactory, including any comments made by the child or the foster parent. Any matter for concern or difficulty should be highlighted so that the need for any action can be discussed with the social worker's supervisor.

17.42 The framework of the report should be designed with a view to the Trust taking one, or a combination of, the following courses of action:

- impose one or more requirements under Article 111 on the person who is fostering the child privately;
- impose a prohibition under Article 110 on the person who is fostering the child privately;
- impose a prohibition with conditions upon non-compliance with requirements under Article 110(5) on the person who is fostering the child privately;
- consider to what extent it should exercise any of its functions pursuant to Article 108(5) with respect to the child.

Unsatisfactory care

17.43 Decisions under Article 108(5) should not be taken by the social worker acting alone. If there is "reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm" the child protection procedure under Part VI of the Children Order should be invoked immediately. This is the only way a Trust can seek to move the child against the private foster parent's wishes. (It is however open to the child's parents to remove him from an unsatisfactory private fostering arrangement and in many such circumstances they should be advised to do this urgently). It is possible, however, for



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private foster parents who have cared for the child for at least five years to prevent parents from removing the child. They may do this if they have applied either for a residence order (Article 8) or for an adoption order (under the Adoption (Northern Ireland) Order 1987) both of which they are able to do after five years without the consent of the parents. Otherwise, concerns should be discussed with senior managers or a panel of officers that monitor standards, together with the Trust's legal advisers. Trusts need to be clear about the level at which care becomes unsatisfactory. In any event, a Trust should taken action to inform the parents of any unsatisfactory care revealed to it.

- 17.44 Having clarified the areas of concern, various options need to be considered, bearing in mind that delay is usually contrary to the best interest of the child. If the child is "in need" as defined by Article 17, a Trust may consider whether temporary help, including financial help, should be made available in the short-term to give time for the child to be prepared for any move or for the placement to be brought up to standard, should a move be contrary to the best interest of the child. This also gives time for the parents to be informed of the situation by the Trust and be able to come to a considered decision.
- 17.45 If the decision is that the child's welfare cannot be satisfactorily safeguarded or promoted in the foster home then, as long as it is in the child's best interest, the Trust should seek to have his care and accommodation undertaken by a parent or a person with parental responsibility. The Children Order also gives the Trust power to ensure that care and accommodation is undertaken by a relative. This should be with the agreement of the parents, or if the parents cannot be found, after the suitability of the relative has been assessed. The Trust can either hand over responsibility for the child to the relative or consider accommodating the child under Article 21 or offering support under Article 18.
- 17.46 A child will need help to cope with a disrupted placement and will need reassurance that he is not to blame, if this is the case. The parents should be involved in, or at least be informed of, any significant action taken by the Trust. The parents can at any time



during the placement remove the child from the private foster home.

- 17.47 There may be particular difficulties if the child's parents are overseas. The short-term expenses of rehabilitating the child with his family may be more cost effective than long-term Trust care if it is judged to be in the child's best interests but the Trust will need to be clear about these issues and the need to obtain court authority if the child is to live overseas (see paragraphs 18.1-18.11: International Aspects).

Refusal to allow visits

- 17.48 It is an offence for a private foster parent to refuse to allow a child to be visited or to obstruct an authorised officer who has reasonable cause to believe that a privately fostered child is being accommodated within the Trust's area, from any exercise of any duty towards the child. An officer encountering any difficulties should discuss the problem with senior staff and legal advisers to decide appropriate action.

Aftercare

- 17.49 Trusts are given new responsibilities towards certain privately fostered children who have left their foster home. A disabled person who is under 21 and who was (but is no longer) privately fostered at any time after his 16th birthday qualifies for advice and assistance from the Trust in whose area his is (Article 35(2)9E).
- 17.50 A Trust may advise, assist and befriend such a person if he asks for help and his private foster parents do not have the necessary facilities to advise or befriend him (Article 35(4)-(6)). Assistance may be in kind or, in exceptionally circumstances, in cash (Article 36(1)) which may also be conditional on repayment, except where a person is in receipt of income support, family credit, disability working allowance or of an income-based Jobseeker's allowance (Article 36(4)). If the person who has been advised or befriended lives in another Trust's area, or proposes to live there, the Trust must inform that other Trust (Article 37(3)).



17.51 The guidance in Chapter 10, Aftercare, Advice and Assistance includes reference to private foster children and should be consulted for guidance on principles and practice. It is important to note that only general subsections of Articles 35 and 36 apply to private fostering. Those that refer only to children formerly looked after or accommodated by specific Trusts or organisations do not.

Prohibitions

17.52 Article 110(1), (2) and (3) provides Trusts with the power to prohibit a person from privately fostering children where they are of the opinion that:

- (a) he is not a suitable person (Article 110(2)(a));
- (b) the premises are not suitable (Article 110(2)(b));
- (c) neither the person nor the accommodation is suitable (Article 110(2)(c)).

17.53 Trusts will, in consultation with their legal advisers and one another, wish to develop a general policy on the use of this power so that prohibitions provide an effective framework for promoting and safeguarding the welfare of children, and to prevent unsuitable persons privately fostering children in accommodation that would be prejudicial to the child's welfare.

17.54 The power of a Trust to impose a prohibition on a person applies to a person who proposes to foster privately, as well as to a person who is actually fostering a child privately (Article 110(1)). Under this power a Trust may impose a general prohibition on a person, which applies to any child in any accommodation within the area of the Trust (Article 110(3)(a)). In addition, the Trust may make the prohibition specific to any child in particular accommodation (Article 110(3)(b)), or to a named child in particular accommodation (Article 110(3)(c)).

17.55 Article 110(5) gives Trusts power to impose requirements under



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Article 111, which is to be distinguished from a prohibition on a person who proposes to foster privately, or is fostering a child privately. This power should assist a Trust to fulfil its duty to safeguard and promote the welfare of privately fostered children in its area.

- 17.56 A prohibition must be in writing, sent to the person on whom it is being imposed and specify reasons, contain information about the right of the person to appeal and the time in which he may do so (Article 110(7)).
- 17.57 In circumstances where a prohibition is imposed on a private foster parent, the Trust should exercise its duty under Article 108(1) and satisfy itself that the child's welfare is protected by the private foster parents.

Cancellation of prohibitions

- 17.58 Article 110(4) gives Trusts the power to cancel a prohibition. This power is provided so that Trusts can respond appropriately to matters raised during the process of conducting inquiries into the suitability of the person and his accommodation, or to changes notified by the person.
- 17.59 Persons on whom a prohibition has been imposed under Article 110 are disqualified from private fostering or providing day care or acting as a child minder (Disqualification for Caring for Children Regulations). Articles 78 and 94 prohibit person disqualified from private fostering from becoming involved with a voluntary or privately run children's home. However, such persons may be involved with such homes if they have disclosed the disqualification to the relevant Trust and obtained the Trust's written consent.

Offences

- 17.60 Article 117 covers offences in relation to private fostering:
- in the case of the offence of fostering a child privately whilst



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disqualified from private fostering, or whilst prohibited, a person found guilty on summary conviction would be liable to a term of imprisonment of not more than six months or a fine or both. For all other offences the penalty would be a fine;

- it is an offence for a person under Article 115 to publish an advertisement offering to undertake or arrange for a child to be privately fostered unless it states that person's name and address;
- in cases where a person is fostering privately, or proposes to foster privately more than three children at any one time, the person will be required to register as "a children's home" (Article 90). Any person caring for and accommodating children in a children's home which is not registered, if found guilty on summary conviction, is liable to a fine, Exceptionally, a Trust may exempt a person from registering as "a children's home" under paragraph 4 of Schedule 5 to the Children Order. (Further guidance on foster placements is contained in Chapter 4).

- 17.61 Transitional provisions under paragraph 25 of Schedule 8 to the Children Order concerning private foster parents with more than three foster children, allow three months within which an application can be made to register the home as a children's home. During that time the Trust can consider the alternative, an exercise of discretion under Schedule 5 to the Children Order, to exempt the private foster parents from the usual fostering limit.
- 17.62 Where day care for children under twelve is provided by a person for more than two hours a day, and for more than six days in any year, and for reward, that person shall need to register as a child minder.
- 17.63 It is important for the Trust to ensure that a person who plans to undertake child minding and/or privately foster children under the age of twelve clearly understands that under Part XI of the Children Order he is required to **register** as a child minder and under Part X of the Children Order he is required to **notify** the Trust of his proposal to



foster a child privately.

Appeals

17.64 Article 113 covers appeals by a person who is fostering, or proposes to foster, a child privately under Part X of the Children Order or wishes to challenge the Trust's decision not to exempt him from exceeding the fostering limit of three children under paragraph 4 of Schedule 5 to the Children Order. Article 103 covers appeals by a person who is carrying on "a children's home".

Trusts' approach to private fostering

17.65 The Children Order uses the term "parental responsibility" to describe the duties, rights and authority which a parent has in respect of his child, including a child who is privately fostered. The component parts of the term emphasise the fundamental tasks of parenthood.

17.66 Part X of the Children Order (Article 108(1)) requires a Trust to ensure that advice is given to those persons caring for and accommodating children who are privately fostered. This is particularly important for the care and protection of children.

17.67 Trusts will need to review their existing child care policy towards children who are proposed to be, or are being, privately fostered. Their priorities will need to be re-examined in the light of the current regulations and guidance. There will be a need to re-evaluate the operation of their duties and powers towards privately fostered children, particularly in relation to initiating notification, decision-making, information and visiting. In the course of putting these into operation, Trusts will also have to take note of paragraph 1 of Schedule 2 to the Children Order and the requirements to take reasonable steps to identify the extent of children in need in their areas.

17.68 Trusts and other relevant agencies will be responsible for decisions about their own arrangements for managing the legal and administrative issues assigned to them under the Children Order.



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They should establish that those proposing to care for privately fostered children know where they can get information about obtaining appropriate advice and assistance from other agencies. Similarly, they should be encouraged to work with other key agencies in meeting the legitimate needs of privately fostered children, their parents and private foster parents.

- 17.69 Trusts will, therefore, need to reappraise their organisational arrangements and interactive links between their own legal departments, education and library boards and other agencies in order to carry out their duties in satisfying themselves that the welfare of privately fostered children is safeguarded and promoted. These links in many cases will be the same as those in existence, or being set up in respect of collaborative working, to meet the requirements of the new legislation.



CHAPTER 18: PRIVATE FOSTERING – INTERNATIONAL ASPECTS

Immigration and nationality

- 18.1 There is no provision in the Immigration Rules for children to be admitted to the United Kingdom for private fostering. However, foreign nationals and Commonwealth citizens who are admitted to the United Kingdom for a limited period, for example as visitors, students or work permit holders, may be joined or accompanied by their children provided that certain conditions are met (for example, the parents must be able to maintain and accommodate their children adequately without recourse to public funds). There is not objection to parents placing their children in private foster care during their stay in the United Kingdom provided that they take the child with them when they leave the country. Children will normally be given leave to remain for the same period as their parents. The date when the child's leave to remain expires will be stamped in the child's passport on arrival in the United Kingdom.
- 18.2 Any person who has limited leave to remain in the United Kingdom must leave the country before his leave expires. If he does not do so, he will automatically become an overstayer, which is a criminal offence, and is liable to be removed from the United Kingdom. An application may be made to the Home Office Immigration and Nationality Department for an extension of leave to remain, and a child whose parents were still lawfully present in the United Kingdom would normally be allowed further leave to remain for the same period as the parents. It should be noted that any application for an extension of leave to remain **must** be made before the child's current leave expires and that there is no provision in the immigration rules for a person who was admitted for six months as a visitor to be granted further leave to remain as a visitor or a student.
- 18.3 A child born in the United Kingdom prior to 1 January 1983 is a British citizen and is not therefore subject to immigration control. A child born in the United Kingdom after that date will be a British citizen if at the time of his birth his father or mother is a British citizen



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or lawfully settled in the United Kingdom. A new born child who is found abandoned in the United Kingdom is assumed to meet the above requirements unless the contrary is shown.

- 18.4 A Trust or private foster parent who is in any doubt about a child's immigration or nationality status is strongly advised to consult the Home Office Immigration and Nationality Department at the earliest opportunity. Where a foreign child is abandoned in a private foster home in the United Kingdom, Trusts can also seek assistance from the International Social Services with a view to tracing the child's parents and arranging for the child to be returned to them.

Living abroad

- 18.5 A parent of a child who is being privately fostered, or person with parental responsibility for him, can arrange for his return to his own country from the United Kingdom, sometimes in opposition to the wishes of the child himself or in opposition to the wishes of the private foster parent. It would be advisable for a Trust to establish, in so far as it is practicable to do so, whether a child's parents and the private foster parent know of any plans for the child to emigrate. This will avoid frustrations that may arise from mistaken, confused or disappointed expectations about any proposed or actual plans for the child to emigrate.
- 18.6 Where arrangements need to be made for children whose families live abroad, this is primarily a matter for the private foster parent and the parents. However, if the placement has broken down and the child is accommodated by a Trust, the Trust may need to assist with travel arrangements.
- 18.7 Under Article 33(2) a Trust may arrange (or assist in making arrangements) for a child for whom it is providing accommodation by voluntary agreement to live outside Northern Ireland with the approval of each person who has parental responsibility for the child. Where a child, including a child who had previously been privately fostered, is looked after by a Trust, the court's approval must be sought (Article 33(1)). This may only be given in certain



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circumstances where:

- living outside Northern Ireland, would be in the child's best interests (Article 33(3)(a));
- suitable arrangements have been made, or will be made for his reception and welfare in the new country (Article 33(3)(b));
- the child has consented to live in that country (Article 33(3)(c));
- every person who has parental responsibility for the child has consented to his living in that country (Article 33(3)(d)).

Admission to schools of children from overseas

- 18.8 There are no restrictions on entry to the United Kingdom to children who hold full British citizen passports or children from Commonwealth countries whose passports have been endorsed to show that they have the right of abode in the United Kingdom. Such children, having entered, are entitled to study at school subject to normal school admission requirements.
- 18.9 Holders of passports describing them as British Dependent Territories Citizens or British Overseas Citizens have no automatic entitlement to the right of abode in the United Kingdom and therefore no right of entry in order to attend schools.

Visitors to the United Kingdom

- 18.10 The circumstances in which children are admitted to this country with their parents as visitors (and as such are here for a limited stay) will obviously vary, as the parents may be here for a few days holiday or several months stay. Each application for admission will need to be considered on its merits in the light of the practicability of providing a place and the expediency of doing so (in terms of the educational welfare of the child). The likely length of stay of the child in this



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country will clearly need to be taken into account; under the Immigration Rules the maximum length of stay allowed to a visitor is six months.

- 18.11 Selection of children for admission to schools is the responsibility of the Board of Governors of each school. The admission and enrolment numbers for each school are set by DENI and schools are expected to admit children up to those numbers. All schools must draw up and publish admissions criteria which are used to select pupils when a school is oversubscribed, that is, where there are more applicants than places available. Where a child is refused admission to a school and the parents believe that the school has not applied its admissions criteria properly they can appeal to an independent tribunal set up by the appropriate education and library board. The decision of the Appeals Tribunal is binding in law.



CHAPTER 19: TRUSTS' RECORDS OF PRIVATE FOSTERING

Contents

- 19.1 Accurate, comprehensive and well organised records are essential to good practice. Careful recording of private fostering agreements and decisions relating to the placement of the child, including the aim of the placement and the child's progress should be promoted. Trusts should monitor and keep these records under regular review.

Safekeeping

- 19.2 Good practice requires Trusts to take steps to ensure the safekeeping of their records. This requires not only arrangements for the physical security of the records but effective procedures to restrict access to the records only to those who are properly authorised and in need of information because of their duties in relation to a case.

Access to records

- 19.3 Trusts should act in accordance with the guidance contained in paragraphs 2.76 and 2.77. They should also seek the advice of their own legal advisers concerning the disclosure of information held. It is good practice that information held about an individual should be shared with him unless there are specific reasons for withholding it covered by the legislation and guidance mentioned.

Retention of records

- 19.4 The length of time recommended for the retention of records by Trusts relating to private foster placements has not been specified. It would be good practice however if the timescale which is applied to these records is the same, where appropriate, as the timescale of 10 years specified in regulation 14 of the Foster Placement (Children) Regulations.



CHAPTER 20: PRIVATE FOSTERING – CONTRAST WITH TRUST FAMILY PLACEMENTS AND CHILD MINDING

- 20.1 The major similarity between Trust family placements and private fostering is the nature of the experience for the child. For prospective private foster parents and the child there is a child protection and advisory role for the Trust.

Placements

- 20.2 Except in certain circumstances, a Trust can only place children with foster parents whom it has approved after a full assessment of the foster household. A Trust has the power to choose whomever it feels will best meet the needs of a child requiring care by a Trust.
- 20.3 A Trust does **not** approve private foster parents. It must satisfy itself that the private foster parents, household and accommodation are satisfactory but cannot prevent the placement unless the person is disqualified under the Children Order or the Trust imposes a prohibition on the grounds that the prospective private foster parent is not suitable or the placement would be prejudicial to the welfare of the child or the requirements imposed would effectively prevent the placement in question.

Safeguards

- 20.4 It is the duty of a Trust to safeguard and promote the welfare of any child it placed in an approved foster home. This is confirmed in a statutory agreement between the foster parent and the Trust. Statutory reviews are also required and the Trust has the power to remove the child.
- 20.5 The responsibility for safeguarding and promoting the welfare of the privately fostered child rests with the parents. The role of a Trust is to satisfy itself that the welfare of the child is being satisfactorily safeguarded and promoted by others by supervising, regulating and advising in respect of the private placement. It has no power of



removal except under an emergency protection order.

Financial arrangements

- 20.6 Whilst parents retain parental responsibility in both instances, if a Trust is looking after the child, it selects the appropriate placement following consultation with parents and child and finances it directly, charging the parents if appropriate.
- 20.7 Private foster placements are usually chosen by the parents directly or via a third party and any maintenance is paid direct to them to the private foster parent. Arrangements for care and upbringing are for the parents and private foster parent to decide.

Comparison with child minding

- 20.8 Private fostering and child minding of children aged under twelve for reward are similar in a number of respects. Both are private arrangements involving care for a child and money paid directly by the parents. The role of a Trust is supervisory, regulatory and advisory.
- 20.9 A Trust has power to refuse to register a child minder if it considers that the person is not fit to care for children aged under twelve and/or the premises or equipment are unsuitable. Requirements about the maximum number of children a child minder may care for, safety matters, maintenance of records and notification of changes must be imposed as a condition of registration by a Trust. There is discretion to impose others.
- 20.10 The major difference between private fostering and child minding is the nature of the care. Child minding is primarily day care with daily contact with the parents, although continuous care up to 27 days for reward is included. Private fostering offers continuous care with parental contact by agreement. Visiting requirements for private foster children by a Trust are set out in regulation 3 of The Children (Private Arrangements for Fostering) Regulations, whilst child minders are inspected at least once a year.



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- 20.11 Inquiries carried out for private fostering concerning suitability need to be wider than child minding. For example, the attitudes and behaviour of other members of the family towards the child may only be a minor consideration in child minding (although important) whilst they are crucial to the emotional development of the private foster child as a continuous member of the family. The private foster parent has responsibility for the overall care and welfare of the child on a more permanent basis.
- 20.12 The law on the numbers of children who can be placed with a child minder is more specific than for private fostering in that it regulates the number of “places”. Private fostering is regulated on the basis of the individual child within the usual fostering limit of three and any requirements imposed. This allows for a degree of flexibility but Trusts will need to coordinate their requirements where a person is a private foster parent and a child minder. People who carry out both activities have to register as a child minder and also notify the Trust each time they intend to privately foster a particular child.
- 20.13 Concern may exist that children will be moved from private foster home to private foster home within 28 days to avoid notifying the Trust. The most vulnerable children – those under twelve years of age – if placed for reward (payment in kind or cash, however small) come under the definition of child minding. Where a Trust is concerned that the lack of stability is harmful to the child it should discuss its concerns with the child’s parents and consider what action is required if it determines the child to be suffering or likely to suffer significant harm.
- 20.14 When registering a child minder, the Trust will wish to establish whether or not that person intends to look after children aged under twelve overnight or for longer periods. It may be appropriate in such circumstances – eg a child minder who offers a respite care service to parents with children with a disability – to impose particular requirements.
- 20.15 Information to the public should make it clear that child minding can include overnight stays up to 27 days after which it becomes private



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fostering and further notification must be given. In these cases a Trust may wish to make a supplementary assessment to that already carried out.

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 453

CHILDREN

**The Arrangements for Placement of Children (General) Regulations
(Northern Ireland) 1996**

Made..... 25th September 1996

Coming into operation..... 4th November 1996

ARRANGEMENTS OF REGULATIONS

1. Citation, commencement and interpretation
2. Application of Regulations
3. Making of arrangements
4. Considerations on making and contents of arrangements
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6. Arrangements for contact
7. Health requirements
8. Establishment of records
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SCHEDULES

1. Considerations to which responsible authorities are to have regard
2. Health considerations to which responsible authorities are to have regard
3. Educational considerations to which responsible authorities are to have regard
4. Matters to be included in arrangements to accommodate children who are not in care

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 27(2)(a) and (f)(ii) and (5), 28, 73(1) and (2)(d), 75(2) and (3), 89(1) and (2)(g) and 105(1) and (2)(g) of the Children

(Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“area authority” means, in relation to a child who is or is to be placed, the authority in whose area the child is or is to be placed, where the child is looked after by a different authority;

“care case” means a case in which the child is in the care of an authority(b);

“guardian ad litem” means a guardian ad litem appointed pursuant to Article 60 of the Order or under rules made under Article 66 of the Adoption (Northern Ireland) Order 1987(c);

“health services” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(d);

“placement”, subject to regulation 13, means 0

(a) the provision of accommodation and maintenance by an authority for any child whom it is looking after by any of the means specified in Article 27(2)(a), (b), (c), (d) or (f) of the Order (accommodation and maintenance for children looked after by an authority);

(b) the provision of accommodation for a child by a voluntary organisation by any of the means specified in Article 75(1)(a), (b), (c), (d) or (f) of the Order (provision of accommodation for children by voluntary organisations); and

(c) the provision of accommodation for a child in a registered children’s home;

(a) S.I. 1995/755 (N.I.2)

(b) See the definition of “care order” in Article 2(2) of the Children (Northern Ireland) Order 1995 and paragraphs 11, 12 and 30 of Schedule 8 to the Order

(c) S.I. 1987/2203 (N.I.22); paragraph 166 of Schedule 9 to the Children (Northern Ireland) Order 1995 substituted a new Article 66 with effect from 19th February 1996

(d) S.I. 1972/1265 (N.I.14)

“responsible authority means –

- (a) in relation to a placement by an authority (including one in which the child is accommodated and maintained in a voluntary home or a registered children’s home), the authority which places the child;
- (b) in relation to a placement by a voluntary organisation of a child who is not looked after by an authority, the voluntary organisation which places the child; and
- (c) in relation to a placement in a registered children’s home of a child who is neither looked after by an authority nor accommodated in such a home by a voluntary organisation, the person carrying on the home.

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

Application of Regulations

2.-(1) Subject to paragraph (2), these Regulations apply to placements –

- (a) by an authority of any child;
- (b) by a voluntary organisation of a child who is not looked after by an authority;
- (c) in a registered children’s home of a child who is neither looked after by an authority nor accommodated in such a home by a voluntary organisation, by the person carrying on the home.

(2) These Regulations shall not apply to placements of a child, otherwise than by an authority or voluntary organisation, in a school (as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a)).

Making of arrangements

3.-(1) Before they place a child the responsible authority shall, so far as is reasonably practicable, make immediate and long-term arrangements for that placement, and for promoting the welfare of the child who is to be placed.

(2) Where it not practicable to make those arrangements before the placement, the responsible authority shall make them as soon as is reasonably practicable thereafter.

(3) In the case of a child to whom Article 22(5) of the Order applies (child aged 16 or over agreeing to be provided with accommodation) the arrangements shall, so far as is reasonably practicable, be agreed by the responsible authority with the child before a placement is made and if that is not practicable as soon as is reasonably practicable thereafter.

(4) In any other case in which a child is looked after or accommodated but is not in care, the arrangements shall, so far as is reasonably practicable, be agreed by the responsible authority with –

- (a) a person with parental responsibility for the child; or
- (b) if there is no such person, the person who is caring for the child,

before a placement is made and if that it not practicable, as soon as is reasonably practicable thereafter.

(5) Any arrangements made by the responsible authority under this regulation shall be recorded in writing.

Considerations on making and content of arrangements

4.-(1) The considerations to which the responsible authority is to have regard, so far as is reasonably practicable, in making the arrangements referred to in regulation 3 in each case are, the general considerations specified in Schedule 1, the considerations concerning the health of a child specified in Schedule 2 and the considerations concerning the education of a child specified in Schedule 3.

(2) Except in a care case, the arrangements referred to in regulation 3 shall include, where practicable, arrangements concerning the matters specified in Schedule 4.

Notification of arrangements

5.-(1) The responsible authority shall, so far as is reasonably practicable, notify the following persons of the arrangements to place a child before the placement is made –

- (a) any person an indication of whose wishes and feelings have been sought under Article 26(2), 76(2) or 92(2) of the Order (consultation prior to decision-making in respect of children looked after by an authority, provided with accommodation by a voluntary organisation or in a registered children's home);
- (b) the education and library board for the area in which the child is living;

- (c) the child's medical practitioner;
- (d) any person who is caring for the child immediately before the arrangements are made;
- (e) the area authority;
- (f) except in a care case, any person in whose favour a contact order is in force with respect to the child; and
- (g) in a care case, any person who has contact with the child pursuant to Article 53 of the Order (parental contact etc. with children in care) or to an order under that Article.

(2) Where it is not practicable to give the notification before the placement, it shall be given as soon as is reasonably practicable thereafter.

(3) The responsible authority shall send a copy of the arrangements referred to in regulation 3, or such part of the arrangements as it considers will not prejudice the welfare of the child, with the notification referred to in paragraph (1), but in the case of notification to those specified in paragraph (1)(b) to (g) it shall send details of only such part of the arrangements as it considers those persons need to know.

Arrangements for contact

6. In operating the arrangements referred to in paragraph 6 of Schedule 4, a voluntary organisation or a person carrying on a registered children's home shall, unless it is not reasonably practicable or consistent with the child's welfare, endeavour to promote contact between the child and the persons mentioned in that paragraph.

Health requirements

7.-(1) A responsible authority shall, so far as is reasonably practicable before a placement is made, and if that is not reasonably practicable, as soon as practicable after the placement is made –

- (a) ensure that arrangements are made for the child to be examined by a medical practitioner; and
- (b) require the medical practitioner who has carried out the examination to make a written assessment of the state of health of the child and his need for health care,

unless the child has been so examined and such assessment has been made within a period of 3 months immediately preceding the placement or the child is of sufficient understanding and he refuses to submit to the examination.

(2) During the placement of the child the responsible authority shall ensure that arrangements are made for the child to be provided with health services, including medical and dental care and treatment.

Establishment of records

8.f(1) A responsible authority shall establish, if one is not already in existence, a written case record in respect of each child who is placed.

(2) The record shall include –

- (a) a copy of the arrangements referred to in regulation 3;
- (b) a copy of any written report in its possession concerning the welfare of the child;
- (c) a copy of any document considered or record established in the course of, or as a result of, a review of the child's case;
- (d) details of arrangements for contact, of contact orders and of other court orders relating to the child; and
- (e) details of any arrangements whereby another person acts on behalf of the authority or organisation which placed the child.

Retention and confidentiality of records

9.-(1) A case record relating to a child who is placed shall be retained by the responsible authority until the seventy-fifth anniversary of the date of birth of the child to whom it relates or, if the child dies before attaining the age of 18, for a period of 15 years beginning with the date of his death.

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

(3) A responsible authority shall secure the safekeeping of case records and shall take all necessary steps to ensure that information contained in them is treated as confidential, subject only to –

- (a) any statutory provision under which access to such records or information may be obtained or given; or
- (b) any court order under which access to such records or information may be obtained or given.

Register

10.-(1) Any authority shall, in respect of every child placed in its area (by the authority and any other responsible authority) and every child placed by the authority outside its area, enter into a register to be kept for the purpose –

- (a) the particulars specified in paragraph (3); and
- (b) such of the particulars specified in paragraph (4) as may be appropriate.

(2) A voluntary organisation and a person carrying on a registered children's home shall, in respect of every child placed by them, enter into a register to be kept of the purpose –

- (a) the particulars specified in paragraph (3); and
- (b) such of the particulars specified in paragraph (4) as may be appropriate.

(3) The particulars to be entered into the register in accordance with paragraph (1) or (2) are –

- (a) the name, sex and date of birth of the child;
- (b) the name and address of the person with whom the child is placed and, if different, of those of the child's parent or other person not being a parent of his who has parental responsibility for him;
- (c) in the case of a child placed on behalf of an authority by a voluntary organisation or in a registered children's home, the name of the authority;
- (d) whether the child's name is entered on any authority register indicating that the child is at risk of being abused;
- (e) whether the child's name is entered on the register maintained under paragraph 3 of Schedule 2 to the Order (register of disabled children);

(f) the date on which each placement of the child began and terminated and the reason for each termination;

(g) in a care case, the name of the authority in whose care the child is; and

(h) the legal provisions under which the child is being looked after or cared for.

(4) The additional particulars to be entered in the register in accordance with paragraph (1) or (2) are –

(a) in the case of a child placed by an authority in respect of whom arrangements have been made for the area authority to carry out functions pursuant to regulation 12, a note that the arrangements were made and the name of the other authority with whom they were made; and

(b) in the case of a child who has been placed, in respect of whom arrangements have been made for supervision of the placement to be carried out on behalf of a responsible authority (otherwise than pursuant to regulation 12), a note that the arrangements were made and the name of the person with whom the arrangements were made.

(5) Entries in registers kept in accordance with this regulation shall be retained until the child to whom the entry relates attains the age of 23 or, if the child dies before attaining 23, the period of 5 years beginning with the date of his death.

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

(7) A responsible authority shall secure the safekeeping of registers kept in accordance with this regulation and shall take all necessary steps to ensure that information contained in them is treated as confidential, subject only to –

(a) any statutory provision under which access to such registers or information may be obtained or given; or

(b) any court order under which access to such registers or information may be obtained or given.

Access by guardians ad litem to records and register

11. Each voluntary organisation, where it is not acting as an authorised person^(a) and every person carrying on a registered children's home shall provide a guardian ad litem of a child with –

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

Arrangements between authorities and area authorities

12. Where arrangements are made by an authority which is looking after a child with an area authority to carry out functions in relation to a placement on behalf of the authority –

- (a) the authority shall supply the area authority with all such information as is necessary to enable the area authority to carry out those functions on behalf of the authority;
- (b) the area authority shall keep the authority informed of the progress of the child and, in particular, shall furnish reports to the authority following each visit to the home in which the child is placed and following each review of the case of the child carried out by the area authority on behalf of the authority;
- (c) the authority and the area authority shall consult each other as necessary, and as soon as is reasonably practicable after each such review of the case of the child, with regard to what action is required in relation to him.

(a) For access by guardians ad litem to authority and authorised person's records *see* Article 61 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I.2)). "Authorised person" is defined in Article 49(2) of that Order

Application of Regulations to short-term placements

13.-(1) This regulation applies where a responsible authority has arranged to place a child in a series of short-term placements at the same place and the arrangement is such that no single placement is to last for more than 4 weeks and the total duration of the placements is not to exceed 90 days in any period of 12 months.

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of these Regulations.

Sealed with the Official Seal of the Department of Health and Social
Services on 25th September 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

SCHEDULE 1

Regulation 4(1)

Considerations to which responsible authorities are to have regard

1. In the case of a child who is in care, whether an application should be made to discharge the care order.
2. Where the responsible authority is an authority, whether the authority should seek a change in the child's legal status.
3. Arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others so far as is consistent with his welfare.
4. The responsible authority's immediate and long-term arrangements for the child, previous arrangements in respect of the child, and whether a change in those arrangements is needed and consideration of alternative courses of action.
5. Where the responsible authority is an authority, whether an independent visitor should be appointed if one has not already been appointed.
6. Whether arrangements need to be made for the time when the child will no longer be looked after by the responsible authority.
7. Whether plans need to be made to find a permanent substitute family for the child.

SCHEDULE 2

Regulation 4(1)

**Health considerations to which responsible authorities
are to have regard**

1. The child's state of health.
2. The child's health history.
3. The effect of the child's health and health history on his development.
4. Existing arrangements for the child's medical and dental care and treatment, and health and dental surveillance.
5. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
6. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing.

SCHEDULE 3

Regulation 4(1)

**Educational consideration to which responsible authorities
are to have regard**

1. The child's educational history.
2. The need to achieve continuity in the child's education.
3. The need to identify any educational need which the child may have and to take action to meet that need.
4. The need to carry out any assessment in respect of any special educational need under the Education and Libraries (Northern Ireland) Order 1986^(a) and meet any such needs identified in a statement of special educational needs made under Article 31(1) of that Order.

^(a) S.I. 1986/594 (N.I.3)

SCHEDULE 4

Regulation 4(2)

**Matters to be included in arrangements to accommodate
children who are not in care**

1. The type of accommodation to be provided and its address together with the name of any person who will be responsible for the child at that accommodation on behalf of the responsible authority.
2. The details of any services to be provided for the child.
3. The respective responsibilities of the responsible authority and –
 - (a) the child;
 - (b) any parent of his; and
 - (c) any person who is not a parent of his but who has parental responsibility for him.
4. What delegation there has been by the persons referred to in paragraph 3(b) and (c) to the responsible authority of parental responsibility for the child's day to day care.
5. The arrangements for involving those persons and the child in decision-making with respect to the child having regard to –
 - (a) the authority's duty under Articles 21(6) (involvement of children before provision of accommodation and 26(1) to (3) of the Order (general duty of authorities in relation to children looked after by them);
 - (b) the duty of the voluntary organisation under Article 76(1) to (3) of the Order (duties of voluntary organisations); and
 - (c) the duty of the person carrying on a registered children's home under Article 92(1) to (3) of the Order (duties of person carrying on a registered children's home).
6. The arrangements for contact between the child and –
 - (a) his parents;

- (b) any person who is not a parent of his but who has parental responsibility for him; and
- (c) any relative, friend or other person connected with him,

and, if appropriate, the reasons why contact with any such person would not be reasonably practicable or would be inconsistent with the child's welfare.

7. The arrangements for notifying changes in arrangements for contact to any of the persons referred to in paragraph 6.

8. In the case of a child aged 16 or over whether Article 22(5) of the Order (accommodation of a child of 16 or over despite parental opposition) applies.

9. The expected duration of arrangements and the steps which should apply to bring the arrangements to an end, including arrangements for rehabilitation of the child with the person with whom he was living before the voluntary arrangements were made or some other suitable person, having regard in particular, in the case of an authority looking after a child, to Articles 27(7) (duty to place children where practicable with parents etc) and 29 of the Order (promotion and maintenance of contact between child and family).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the arrangements for placement of children by authorities, voluntary organisations and persons carrying on registered children's homes. These placements are with foster parents, in homes provided by authorities, in voluntary children's homes or registered children's homes and under other arrangements.

The Regulations make provision for the application of the Regulations (regulation 2); the making of arrangements for accommodation and maintenance, and promotion of the welfare of children (regulation 3); the considerations to be given on making the arrangements and, except in a care case, the contents of those arrangements (regulation 4 and Schedules 1 to 4); those who must be notified of the arrangements (regulation 5); the arrangements for contact in respect of children placed by voluntary organisations or in a registered children's home (regulation 6); health requirements (regulation 7); the establishment of records (regulation 8); the retention and confidentiality of records (regulation 9); registers of relevant information (regulation 10); the access by guardians ad litem to records and registers (regulation 11); arrangements made between authorities and other authorities for carrying out responsibilities in respect of those arrangements (regulation 12) and the application of the Regulations to short-term placements (regulation 13).

Articles 27(2)(a) and (f)(ii) and (5), 28, 73(1) and (2)(d), 75(2) and (3), 89(1) and (2)(g) and 105(1) and (2)(g) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 467

CHILDREN

**The Foster Placement (Children) Regulations
(Northern Ireland) 1996**

Made..... 3rd October 1996

Coming into operation..... 4th November 1996

ARRANGEMENTS OF REGULATIONS

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 27(2)(a), 28(1), 75(2) and 77(3) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Foster Placement (Children) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

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

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

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

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

“guardian ad litem” means a guardian ad litem appointed pursuant to Article 60 of the Order or under rules made under Article 66 of the Adoption (Northern Ireland) Order 1987(a);

“responsible authority”, in relation to a child, means the authority or voluntary organisation responsible for the placement of the child under (as the case may be) Article 27(2)(a) or 75(1) of the Order.

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

Scope of Regulations

2.-(1) Subject to paragraph (2), these Regulations shall apply to any placement of a child –

- (a) by an authority under Article 27(2)(a) of the Order;
- (b) by a voluntary organisation under Article 75(1)(a) of the Order (unless it is acting on behalf of an authority).

(2) These Regulations shall not apply to any placement of a child –

- (a) to which the Placement of Children with Parents etc Regulations (Northern Ireland) 1996(b) apply;

(a) S.I. 1987/2203 (N.I.22); paragraph 166 of Schedule 9 to the Children (Northern Ireland) Order 1995 substituted a new Article 66 with effect from 19th February 1996
(b) S.R. 1996 No. 463

(b) if the child is not in the care of an authority^(a), with a parent of his or other person having parental responsibility for him; or

(c) for adoption pursuant to the Adoption (Northern Ireland) Order 1987.

(3) Where a care order is in force, the application of these Regulations is subject to any directions given by a court (whether before, on or after these Regulations come into operation).

(4) Nothing in these Regulations shall require the temporary removal of a child from a person with whom he is already living before placement under these Regulations.

PART II

APPROVALS AND PLACEMENTS

Approval of foster parents

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

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

(3) An authority or voluntary organisation –

(a) shall not approve a foster parent who is already approved by another authority or voluntary organisation; and

(b) shall not approve a foster parent in the area of an area authority unless it first consults with, and take into account the views of, the area authority whom it shall also notify of its decision.

(a) See the definition of “care order” in Article 2(2) of the Children (Northern Ireland) Order 1995 and paragraphs 11, 12 and 30 of Schedule 8 to that Order

(4) An authority or voluntary organisation shall not give any approval under this regulation unless it has first

–

(a) required the prospective foster parent to supply the names and addresses of two persons to provide personal references for him and has arranged for them to be interviewed; and

(b) obtained, so far as is practicable, the information specified in Schedule 1 relating to him and other members of his household and family,

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

(5) An approval given under this regulation may be in respect of a particular named child or children, or number and age range of children, or of placements of any particular kind or in any particular circumstances.

(6) Where an approving authority approves a person as a foster parent it –

(a) shall give him notice which specifies whether the approval is in respect of a particular named child or children, or number and age range of children, or of placements of any particular kind or in any particular circumstances; and

(b) shall nevertheless place no child with him unless he enters into a written agreement with it covering the matters and obligations specified in Schedule 2.

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

Reviews and terminations of approval

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

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

(3) At the conclusion of the review, the approving authority shall prepare a report and give notice to the foster parent of its decision.

(4) Where on a review the approving authority is no longer satisfied –

(a) that the terms of the approval under regulation 3(6)(a) are appropriate, it shall revise the terms and give notice to the foster parent in accordance with paragraph (3); or

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

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

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

Placements

5.(1) A responsible authority is not to place a child with a foster parent unless it is satisfied that –

(a) that is the most suitable way of performing its duty under (as the case may be) Article 26(1) or 76(1)(a) and (b) of the Order; and

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

(2) In making arrangements for a placement, a responsible authority shall secure that where possible the foster parent is –

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

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

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

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

- (a) the approving authority consents to the placement;
- (b) any other authority or voluntary organisation who already has a child placed with the foster parent also consents to the placement; and
- (c) the area authority (if it is not also the approving authority) is consulted, and its views taken into account.

(5) A responsible authority which places a child after consulting an area authority under paragraph (4)(c) shall give notice of the placement to the area authority.

(6) Except in the case of an emergency or immediate placement under regulation 11, a responsible authority is not to place a child unless the responsible authority and the foster parent have entered into a written agreement relating to that child covering the matters and obligations specified in Schedule 3.

Supervision of placements

6.-(1) A responsible authority shall satisfy itself that the welfare of each child placed by it continues to be suitably approved for by the placement, and for that purpose the responsible authority shall –

- (a) make arrangements for a person authorised by it to visit the child in the home in which he is placed, as circumstances may require and when reasonably requested by the child or the foster parent and in particular (but subject to regulation 9(2)), within one week from its beginning and thereafter at least once every month; and
- (b) give such advice to the foster parent as appears to the responsible authority to be needed.

(2) In the case of an emergency or immediate placement under regulation 11, the responsible authority is to arrange for the child to be visited at least one in each week during the placement.

(3) On each occasion on which a child is visited under this regulation, the responsible authority shall cause the authorised person, if it considers it appropriate, to arrange to see the child alone.

(4) On each occasion on which a child is visited under this regulation, the responsible authority shall cause a written report to be prepared by the person who made the visit.

Termination of placements

7.-(1) A responsible authority shall not allow the placement of a child with a particular foster parent to continue if it appears to it that the placement is no longer the most suitable of way performing its duty under (as the case may be) Article 26(1) or 76(1)(a) and (b) of the Order.

(2) Where a child has been placed by some other authority, or by a voluntary organisation, in the area of the area authority and it appears to the area authority that continuation of the placement would be detrimental to the welfare of the child, the area authority shall remove the child forthwith.

(3) The area authority which removes a child under paragraph (2) is forthwith to notify the responsible authority.

Arrangements between authorities and voluntary organisations as to placements

8.-(1) Where an authority looking after a child is satisfied that the child should be placed with a foster parent, it may make arrangements under this regulation for the other duties imposed on it under this Part in relation to the child to be discharged on its behalf by a voluntary organisation.

(2) Subject to paragraph (3), an authority shall not make arrangements under this regulation in relation to any child unless –

(a) it is satisfied –

(i) as to the capacity of the voluntary organisation to discharge duties on the authority's behalf in relation to that child, and

(ii) that those arrangements are the most suitable way for those duties to be so discharged; and

(b) the authority enters into a written agreement with the voluntary organisation about the arrangements relating to the child, providing for consultation and for exchange of information and reports between the authority and the organisation.

(3) Where an authority has satisfied itself that a voluntary organisation has the general capacity to discharge the duties imposed on it under this Part in relation to children, the requirements set out in paragraph (2)(a)(i) shall be deemed to be satisfied in relation to each child who is the subject of arrangements with that organisation under paragraph (1).

Short-term placements

9.f(1) This regulation applies where a responsible authority has arranged to place a child in a series of short-term placements with the same foster parent and the arrangement is such that no single placement is to last for more than 4 weeks and the total duration of the placements is not to exceed 9 days in any period of 12 months.

(2) A series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of this Part and Part IV but with the modifications set out in paragraphs (3) and (4).

(3) Regulation 6(1)(a) shall apply as if it required arrangements to be made for visits to the child on a day when he is in fact placed (“a placement day”) –

- (a) within the first 7 placement days of a series of short-term placements; and
- (b) thereafter, if the series of placements continues, at intervals of not more than 6 months or, if the interval between placements exceeds 6 months, during the next placement.

(4) Regulation 15(1)(a) shall apply as if it required arrangements to be made for visits to the child on a placement day, within the first 7 placement days of a series of short-term placements.

Placements outside Northern Ireland

10.-(1) A voluntary organisation shall not place a child for whose placement it is responsible outside the British Islands and, notwithstanding regulation 8, a voluntary organisation shall not place a child outside the British Islands on behalf of an authority.

(2) Where a responsible authority makes arrangements to place a child outside Northern Ireland it shall ensure that, so far as is reasonably practicable, requirements are complied with in relation to the child which would have applied under these Regulations had the child been placed in Northern Ireland.

(3) In the case of an authority, paragraph (2) is subject to the provisions of Article 33 of the Order (arrangements by authorities to assist children to live outside Northern Ireland).

Emergency and immediate placements by authorities

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

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

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

(3) Where an authority is satisfied that the immediate placement of a child is necessary it may, for a period not exceeding 6 weeks, place the child with a person who has not been approved under regulation 3 provided, after interviewing the person, inspecting the accommodation and obtaining information about other persons living in his household, the authority is also satisfied that –

- (a) the person is a relative or friend of the child;
- (b) the person has made a written agreement with the authority to carry out the duties specified in paragraph (4); and
- (c) the provisions of regulation 5(1)(a) are satisfied.

(4) The duties referred to in paragraphs (2)(b) and (3)(b) are –

- (a) to care for the child as if he were a member of that person's family;
- (b) to permit any person authorised by the authority or (if different) the area authority, to visit the child at any time;
- (c) where regulation 7(1) or (2) applies, to allow the child to be removed at any time by the authority or (as the case may be) the area authority;
- (d) to ensure that any information which that person may acquire relating to the child, or to his family or any other person, which has been given to him in confidence in connection with the placement is kept confidential and is not disclosed except to, or with the agreement of, the authority; and
- (e) to allow contact with the child in accordance with –
 - (i) Article 53 of the Order (parental contact etc with children in care) in relation to a child in care,
 - (ii) any contact order (as defined in Article 8(1) of the Order), and

(iii) any arrangements made or agreed by the authority.

(5) Where an authority makes a placement under this regulation outside its area, it shall notify the area authority.

PART III

RECORDS

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

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

(2) The particulars mentioned in paragraph (1) are –

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

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

13.-(1) An approving authority shall compile (if one is not already established) and maintain a record for each foster parent whom it has approved under regulation 3.

(2) An authority shall compile (if one is not already established) and maintain a record for each person, not being an approved foster parent, with whom a child is placed by it pursuant to regulation 11.

(3) Each record compiled under paragraph (1) or (2) shall include copies of each of the documents specified in paragraph (4) and the information specified in paragraph (5).

(4) The documents referred to in paragraph (3) are, as the case may be, -

- (a) the notice of approval under regulation 3(6)(a);
- (b) the agreement under regulation 3(6)(b) and Schedule 2;
- (c) any report of the review of approval under regulation 4(3);
- (d) any notice of termination of approval under regulation 4(3) or (5);
- (e) any agreement specified in regulation 11(3)(b).

(5) The information referred to in paragraph (3) is, as the case may be, -

- (a) a record of each placement with the foster parent or person, not being an approved foster parent, with whom a child is placed pursuant to regulation 11, including the name, age and sex of each child placed, the dates on which each placement began and terminated the circumstances of the termination;
- (b) the information obtained by the approving authority in relation to the approval of the foster parent and in relation to any review of termination of the approval;
- (c) the information obtained under regulation 11(3).

(6) An approving authority shall compile a record for each prospective foster parent to whom notice is given under regulation 3(7) that he is not approved as a foster parent, the record to include a copy of the notice and the information, as to the foster parent and his household and family, obtained by the approving authority in connection with the question of approval.

Retention and confidentiality of records

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

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

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

- (a) any statutory provision under which access to such register, record or information may be obtained or should be granted; and
- (b) any court order under which access to such register, record or information may be obtained or given.

(4) Each voluntary organisation, where it is not acting as an authorised person^(a), shall provide a guardian ad litem of a child with –

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

PART IV

AUTHORITY VISITS TO CHILDREN PLACED BY VOLUNTARY ORGANISATIONS

Circumstances necessitating visits by authorities

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

- (a) within 28 days of the placement with the foster parent;

(a) For access by guardian ad litem to authority and authorised person's records *see* Article 61 of the Children (Northern Ireland) Order 1995 (S.I.1995/755 (N.I.2)). "Authorised person" is defined in Article 49 of that Order

(b) where the voluntary organisation which made the placement with the foster parent makes representations to the authority that there are circumstances relating to the child which require a visit, within 14 days of the receipt of the representations;

(c) where the authority is informed that the welfare of the child may not be being safeguarded or promoted, as soon as is reasonably practicable but in any event within 7 days of being informed; or

(d) where the authority is satisfied, following a visit to a child under this regulation in respect of a placement with a foster parent, that the child's welfare is being safeguarded and promoted, at intervals of not more than 6 months.

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

Requirements in respect of visits

16. Every authority shall make arrangements to ensure that in respect of any visit made pursuant to regulation 15, and officer of the authority –

(a) sees the child during the course of the visit, unless he considers it unnecessary to do so or the child is not in fact with the foster parents at the time of the visit;

(b) if the child is not with the foster parents at the time of the visit, makes arrangements to see the child as soon as is reasonably practicable;

(c) takes steps to discover whether the voluntary organisation which placed the child has made suitable arrangements to perform its duties under these Regulations and those under Article 76 of the Order.

PART V

REVOCATION

Revocation

17. Subject to the operation of the transitional provisions of paragraph 16 of Schedule 8 to the Order, the Children and Young Persons (Boarding-Out) Regulations (Northern Ireland) 1976(a), in so far as they continue to have effect, are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social
Services on 3rd October 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

SCHEDULE 1

Regulation 3(4)(b)

**Information as to the prospective foster parent and other
members of his household and family**

1. His age, health (supported by a medical report), personality and marital status (including any previous marriage).
2. Particulars of the other adult members of his household.
3. Particulars of the children in his family, whether or not members of his household, and any other children in his household.
4. Particulars of his accommodation.
5. His religious persuasion, the degree of his religious observance and his capacity to care for a child from any particular religious persuasion.
6. His racial origin, his cultural and linguistic background and his capacity to care for a child from any particular origin or cultural or linguistic background.
7. His past and present employment or occupation, his standard of living and leisure activities and interests.
8. His previous experience of caring for his own and other children and his ability in this respect.
9. Subject to the Rehabilitation of Offenders (Northern Ireland) Order 1978(a), his previous criminal convictions, if any, and those of other adult members of his household.
10. The outcome of any request or application made by him or any other member of his household to foster or adopt children or for registration under Article 118 of the Order (registration of child minders and persons providing day care) or any previous enactment of that Article.
11. Particulars of any previous approval under regulation 3, or refusal of approval or termination of approval under regulation 4, relating to him or any other member of his household.

(a) S.I. 1978/1908 (N.I.27)

SCHEDULE 2

Regulation 3(6)(b)

Matters and obligations to be covered in foster care agreements

1. The amount of support and training to be given to the foster parent.
2. The procedure for the review of approval of a foster parent.
3. The procedure in connection with the placement of foster children, and in particular –
 - (a) the matters to be covered in foster placement agreements and the respective obligations, under any such agreements, of the responsible authority and the foster parent;
 - (b) the responsible authority's arrangements for meeting any legal liabilities of the foster parent arising by reason of a placement; and
 - (c) the procedure available to foster parents for making representations to the authority in whose area that child is placed.
4. To give written notice to the responsible authority forthwith, with full particulars, of –
 - (a) any intended change of his address;
 - (b) any change in the composition of his household;
 - (c) any other change in his personal circumstances and any other event affecting either his capacity to care for any child placed or the suitability of his household; and
 - (d) any further request or application of a kind mentioned in paragraph 10 of Schedule 1.
5. Not to administer corporal punishment to any child placed with him.
6. To ensure that any information relating to a child placed with him, to the child's family or to any other person, which has been given to him in confidence in connection with a placement is kept confidential and is not disclosed to any person without the consent of the responsibility authority.

7. To comply with the terms of any foster placement agreement, to care for the child placed with the foster parent as if he were a member of the foster parent's family and to promote his welfare having regard to the responsible authority's long and short-term arrangements for the child.

8. To notify the responsible authority immediately of any serious illness of the child or of any other serious occurrence affecting the child.

9. Where regulation 7(1) or (2) applies, to allow the child to be removed from the foster parent's home by the responsible authority or (as the case may be) the area authority.

SCHEDULE 3

Regulation 5(6)

Matters and obligations to be covered in foster placement agreements

1. The provision by the responsible authority of a statement containing all the information which the responsible authority considers necessary to enable the foster parent to care for the child and, in particular, information as to –

- (a) the responsible authority's arrangements for the child and the objectives of the placement;
- (b) the child's person history, religious persuasion and cultural and linguistic background and racial origin;
- (c) the child's state of health and need for health care and surveillance; and
- (d) the child's educational needs,

including a requirement for the statement to be provided either at the time of the signing of the agreement or, where this is not practicable, within the following 14 days.

- 2. The responsible authority's arrangements for the financial support of the child during the placement.
- 3. Any arrangements for delegation of responsibility for consent to the medical or dental examination or treatment of the child.
- 4. The circumstances in which it is necessary to obtain in advance the approval of the responsible authority for the child to live, even temporarily, away from the foster parent's home.
- 5. The arrangements for visits to the child, in connection with the supervision of the placement, by the person authorised by or on behalf of the responsible authority or area authority and the frequency of visits and reviews under the Review of Children's Cases Regulations (Northern Ireland) 1996(a).
- 6. The arrangements for the child to have contact with his parents and other persons, including any arrangements in pursuance of Article 53 of the Order (parental contact etc with children in care) in relation to a child in care, or any contact order (as defined in Article 8(1) of the Order).

7. Compliance by the foster parent with the terms of the agreement set out in Schedule 2.

8. Co-operation by the foster parent with any arrangements made by the responsible authority for the child.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations replace the Children and Young Persons (Boarding-Out) Regulations (Northern Ireland) 1976.

The Regulations apply to placements of children by authorities and voluntary organisations, other than placements to which the Placement of Children with Parents etc Regulations (Northern Ireland) 1996 apply and placements for adoption or with a person having parental responsibility for a child (regulation 2).

Part II of the Regulations relates to approvals and placements and provides for a prospective foster parent to supply information about his household and family and requires the foster parent with whom a child is placed to be approved by an authority or voluntary organisation (regulation 3 and Schedules 1 and 2); makes provision for reviews and terminations of approval (regulation 4); for the placement of a child with a foster parent (regulation 5 and Schedule 3) and for the supervision and termination of placements (regulations 6 and 7); allows authorities to make arrangements with voluntary organisations to be responsible for the placement of children (regulation 8); the application of the Regulations to short-term placements (regulation 9); placements outside Northern Ireland (regulation 10); and for emergency and immediate placements by authorities (regulation 11).

Part III of the Regulations provides for authorities to maintain a register of foster parents approved in their area (regulation 12); for authorities and voluntary organisations to maintain a record for each foster parent they approve (regulation 13) and for the retention and confidentiality of the registers and records (regulation 14).

Part IV of the Regulations makes provision for visits to children placed with foster parents by voluntary organisations (regulations 15 and 16).

Part V of the Regulations revokes the Children and Young Persons (Boarding-Out) Regulations (Northern Ireland) 1976 (regulation 17).

Articles 27(2)(a), 28(1), 75(2) and 77(3) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1, to the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 463

CHILDREN

**The Placement Children with Parents etc
Regulations (Northern Ireland) 1996**

Made..... 1st October 1996

Coming into operation..... 4th November 1996

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Scope of Regulations
3. Inquiries and assessment
4. Duties of authorities in relation to placements
5. Placement decisions by authority or nominated person
6. Immediate placements
7. Provisions of agreements
8. Notification of placements
9. Support and supervision of placements
10. Placements outside Northern Ireland
11. Termination of placements
12. Notification of termination of placements
13. Application of Regulations to short-term placements

SCHEDULES

1. Particulars to be taken into account in considering suitability of persons and households
2. Particulars on which there should be agreement with the person with whom a child is to be placed

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 27(5) and 28(3) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Placement of Children with Parents etc Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“are authority” means, in relation to a child who is or is to be placed, the authority in whose area the child is or is to be placed where the child is in the care of a different authority;

“placement” means allowing a child who is in the care of an authority to live pursuant to Article 27(5) of the Order (placement of a child in care with parents etc) with –

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

“placement decision” means a decision to place a child which is made in accordance with regulation 5(2);

“supervisory duties” means the duties imposed by regulation 9.

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

Scope of Regulations

2.-(1) These Regulations shall apply to every child who is in the care of an authority(a) and who is or is proposed to be placed.

(2) Where a child who is to be placed is aged 16 or over, regulations 3, 6, 7, 8, 9 and 12 shall not apply.

(3) These Regulations shall not apply to the placement of a child for adoption pursuant to the Adoption (Northern Ireland) Order 1987(b).

(4) Nothing in these Regulations shall require the temporary removal of a child from the person with whom he is already living and with whom he may be placed, before a placement decision is made concerning him.

(5) These Regulations shall not apply in a case to the extent that they are incompatible with any order made by a court under Article 53 of the Order (parental contact etc with children in care) or any direction of a court which has effect under paragraph 12(4) of Schedule 8 to the Order (transitional provision as to directions) in that case.

Inquiries and assessment

3.-(1) Before a placement decision is made, an authority shall make all necessary inquiries in respect of –

- (a) the health of the child;
- (b) the suitability of the person with whom it is proposed that the child should be placed;
- (c) the suitability of the proposed accommodation, including the proposed sleeping arrangements;
- (d) the educational and social needs of the child; and
- (e) the suitability of all other members of the household, aged 10 and over, in which it is proposed the child will live.

(2) In considering the suitability of a person as required by paragraph (1)(b) or (e), the authority shall, so far as is practicable, take into account the particulars specified in paragraphs 1 and 2 respectively of Schedule 1.

(a) See the definition of “care order” in Article 2(2) of the Children (Northern Ireland) Order 1995 and paragraphs 11, 12 and 30 of Schedule 8 to that Order
(b) S.I. 1987/2203 (N.I.22)

Duties of authorities in relation to placements

4. An authority shall satisfy itself that the placement of a child is the most suitable way of performing its duty under Article 26(1) of the Order (general duty of authorities in respect of children looked after by them) and that the placement is the most suitable having regard to all the circumstances.

Placement decision by authority or nominated person

5.-(1) A placement shall be made only after a placement decision has been made.

(2) The decision to place a child shall be made by an authority or by an officer of the authority nominated for that purpose by the authority.

Immediate placements

6.-(1) Subject to paragraph (2), nothing in regulation 3 shall prevent the immediate placement of a child pursuant to a placement decision in circumstances in which an authority considers that to be necessary and in accordance with its duty under Article 26(1) of the Order, and in such a case, the authority shall take steps to ensure that the provisions of these Regulations, that would otherwise have to be complied with before the placement decision is made, are complied with as soon as practicable thereafter.

(2) Before an immediate placement is made pursuant to this regulation, an authority shall –

- (a) arrange for the person with whom the child is to be placed to be interviewed in order to obtain as much of the information specified in paragraph 1 of Schedule 1 as can be readily ascertained at the interview; and
- (b) arrange to obtain as much of the information specified in paragraph 2 of Schedule 1 in relation to other members of the household aged 10 and over in which it is proposed the child will live, as can be readily ascertained at the time of that interview.

Provisions of agreements

7. Following a placement decision an authority shall seek to reach agreement with the person with whom the child is to be placed on all the particulars, so far as practicable, specified in Schedule 2, and the placement shall not be put into effect until such an agreement on all such particulars has been reached and recorded in writing and a copy of it has been given or sent to that person.

Notification of placements

8.-(1) Subject to paragraph (3), an authority shall, so far as is practicable, give notice to all the persons whose wishes and feelings have been sought in relation to the decision to place the child pursuant to Article 26(2) of the Order (persons to be consulted concerning authority decisions) and to those persons specified in paragraph (4) of –

- (a) the placement decision; and
- (b) details of where the child is to be placed.

(2) Where the child is placed with a person other than a parent, the authority's notice under paragraph (1) to the persons referred to in that paragraph shall contain –

- (a) the name and address of the person with whom the child is placed;
- (b) particulars of arrangements for contact with the child; and
- (c) any other particulars relating to the care and welfare of the child which it appears to the authority ought to be supplied.

(3) An authority shall not be required to give notice under paragraph (1) in the case of a person whose whereabouts are unknown to the authority, or cannot be readily ascertained, or in any case where the authority determines that to give such notice would not be in accordance with its duty under Article 26(1) of the Order.

(4) For the purposes of paragraph (1), the persons specified are –

- (a) the education and library board for the area in which the child is living;
- (b) the child's medical practitioner;
- (c) the area authority;
- (d) any person who has been caring for the child immediately before the placement; and
- (e) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the residence order was made.

Support and supervision of placements

9.-(1) An authority shall satisfy itself that the welfare of each child who has been placed by the authority continues to be appropriately provided for by his placement, and for that purpose the authority shall –

- (a) give such advice and assistance to the person with whom the child is placed as appears to the authority to be necessary; and
- (b) make arrangements for a person authorised by the authority to visit the child as necessary, but in any event –
 - (i) within one week of the beginning of the placement,
 - (ii) at intervals of not more than 4 weeks during the first year of the placement, and
 - (iii) thereafter at intervals of not more than 3 months and also whenever reasonably requested by the child or the person with whom the child is placed,

and for the person so authorised to make arrangements, so far as is practicable, on each visit to see the child alone.

(2) On each occasion on which a child is visited in pursuance of this regulation by any person authorised by the authority which placed the child, the authority shall cause a written report on the child to be prepared by that person.

Placements outside Northern Ireland

10. A authority which makes arrangements to place a child outside Northern Ireland in accordance with the provisions of Article 33 of the Order (arrangements to assist children to live abroad) shall take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements of these Regulations are complied with in relation to that child as would be required to be complied with under these Regulations if the child were placed in Northern Ireland.

Termination of placements

11.-(1) If it appears to an authority that the placement is no longer in accordance with its duty in respect of the child under Article 26(1) of the Order or would prejudice the safety of the child, it shall terminate the placement and shall remove the child forthwith from the person with whom he is placed.

(2) Where, in the case of a child who has been placed in the area of an area authority by another authority, it appears to the area authority that it would be detrimental to the welfare of the child if he continued to be so placed, the area authority may remove the child forthwith from the person with whom he is placed.

(3) Where a child is removed under paragraph (2), the area authority shall forthwith notify the other authority of that fact and that authority shall make other arrangements for the care of the child as soon as is practicable.

Notification of termination of placements

12. In relation to a decision to terminate a placement an authority shall, so far as is reasonably practicable –

- (a) give notice of any decision to terminate the placement before it is terminated to –
 - (i) the child, having regard to his age and understanding,
 - (ii) the other persons whose wishes and feelings have been sought in relation to the decision to terminate the placement pursuant to Article 26(2) of the Order,
 - (iii) the person with whom the child is placed, and
 - (iv) the other persons to whom regulation 8(1) refers; and
- (b) give notice of the termination of the placement to all those persons, other than the child and the person with whom the child was placed.

Application of Regulations to short-term placements

13.f(1) This regulation applies where an authority has arranged to place a child in a series of short-term placements with the same person and the arrangement is such that no single placement is to last for more than 4 weeks and the total duration of the placements is not to exceed 90 days in any period of 12 months.

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of these Regulations.

(3) Regulations 9(1)(b) shall apply in relation to short-term placements to which this regulation applies as if for paragraph (1)(b)(i) to (iii) of that regulation there were substituted –

“(i) on a day when the child is in fact placed (“a placement day”) within the first 7 placement days of a series of short-term placements, and

(ii) thereafter, if the series of short-term placements continues, on placement days falling at intervals of not more than 6 months or, if the interval between placements exceeds 6 months, during the next placement”.

Sealed with the Official Seal of the Department of Health and Social
Services on 1st October 1996.

(L.S.)

P.A. Conliffe
Assistant Secretary

SCHEDULE 1

Regulation 3(2)

**Particulars to be taken into account in considering suitability
of persons and households**

1. In respect of a person with whom it is proposed a child should be placed –

- (a) age;
- (b) health;
- (c) personality;
- (d) marital status and particulars of any previous marriage;
- (e) previous experience of looking after and capacity to look after children and capacity to care for the child;
- (f) the result of any application to have a child placed with him or to adopt a child or of any application for registration under Article 118 of the Order (registration of child minders and persons providing day care) and details of any prohibition on his acting as a child minder, providing day care, or caring for foster children privately or children in a voluntary or registered children's home;
- (g) details of children in his household, whether living there or not;
- (h) religious persuasion and degree of observance, racial origin and cultural and linguistic background;
- (i) past and present employment and leisure activities and interests;
- (j) details of the living standards and particulars of accommodation of his household;
- (k) subject to the provisions of the Rehabilitation of Offenders (Northern Ireland) Order 1978(a), any criminal conviction.

(a) S.I. 1978/1908 (N.I.27)

2. In respect of members of the household aged 10 and over of a person with whom a child is to be placed, so far as practicable, all the particulars specified in paragraph 1(a), (b), (c), (d), (f), (i) and (k).

SCHEDULE 2

Regulation 7

Particulars on which there should be agreement with the Person with whom a child is to be placed

1. The Authority's plans for the child and the objectives of the placement.
2. The arrangements for support of the placement.
3. Arrangements for visiting the child in connection with the supervision of the placement by the person authorised by or on behalf of the authority or area authority, and frequency of visits and reviews of the child's case under Regulations made under Article 45 of the Order(a) (reviews and representations).
4. Arrangements for contact, if any, (including probation of contact) in pursuance of Article 53 of the Order (parental contact etc with children in care).
5. Removal of the child from the placement in the circumstances specified in regulation 11.
6. The need to notify the authority of relevant changes in circumstances of the person with whom the child is placed, including any intention to change his address, changes in the household in which the child will live and any serious occurrence involving the child such as injury or death.
7. The provision of a statement concerning the health of the child, the child's need for health care and surveillance, and the child's educational needs and the authority's arrangements to provide for all such needs.
8. Any arrangements for any delegation and exercise of responsibility for consent to medical examination or treatment.
9. The need to ensure that any information relating to any child or his family or any other person given in confidence to the person with whom the child is placed in connection with the placement is kept confidential and that such information is not disclosed to any person without the consent of the authority.
10. The circumstances in which it is necessary to obtain in advance the approval of the authority for the child living, even temporarily, in a household other than the household of the person with whom the child has been placed.
11. The arrangements for requesting a change in the agreement.

(a) See the Review of Children's Cases Regulations (Northern Ireland) 1996 (S.R. 1996 No. 461)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the accommodation of children in the care of an authority with a parent, a person who is not a parent but has parental responsibility or a person in whose favour there was a residence order immediately before the care order was made.

They make provision for the children to whom the Regulations are to apply (regulation 2); the inquiries and assessment to be made by authorities before making decisions to place children in such accommodation (regulation 3 and Schedule 1); the duties of authorities in relation to placements in those circumstances (regulation 4); the taking of placement decisions by authorities (regulation 5); the circumstances in which authorities can make immediate placements (regulation 6); the particulars to be included in agreements between authorities and those who are to accommodate the children (regulation 7 and Schedule 2); those who must be notified of placements (regulation 8); the supervision of placements by authorities (regulation 9); the application of the Regulations to placements made outside Northern Ireland (regulation 10); the circumstances in which there may be termination of placements (regulation 11); those who must be notified of the termination of placements (regulation 12); and the application of the Regulations to short-term placements (regulations 13).

Articles 27(5) and 28(3) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R.1996 No.297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No.

CHILDREN

Contact with Children Regulations (Northern Ireland) 1996

Made..... 23rd September 1996

Coming into operation..... 4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 53(8) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Contact with Children Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations, any reference to a numbered Article is to the Article of the Children (Northern Ireland) Order 1995 bearing that number.

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

Authority refusal of contact with child

2. Where an authority has decided under Article 53(6) to refuse contact with a child that would otherwise be required by virtue of Article 53(1) or an order under Article 53, the authority shall, as soon as the decision has been made, notify the following persons of those parts of the information specified in the Schedule as the authority considers those persons need to know –

(a) S.I. 1995/755 (N.I.2)

- (a) the child, if he is of sufficient understanding;
- (b) the child's parents;
- (c) any guardian of his;
- (d) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the residence order was made;
- (e) where immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person; and
- (f) any other person whose wishes and feelings the authority considers to be relevant.

Departure from terms of court order on contact under Article 53

3.-(1) Subject to paragraph (2), an authority may depart from the terms of any order under Article 53 (parental contact etc with children in care) by agreement between the authority and the person in relation to whom the order is made.

(2) An agreement under paragraph (1) is subject to the agreement of the child where he is of sufficient understanding.

(3) Within 7 days of an agreement under paragraph (1), notification shall be sent to the persons specified in regulation 2 containing those parts of the information specified in the Schedule as the authority considers those persons need to know.

Notification of variation or suspension of contact arrangements

4. Where an authority varies or suspends any arrangements made (otherwise than under an order made under Article 53) with a view to affording any person contact with a child in the care of that authority, notification shall be sent to those persons specified in regulation 2 containing those parts of the information specified in the Schedule as the authority considers those persons need to know, as soon as the decision is made to vary or suspend the arrangements.

Sealed with the Official Seal of the Department of Health and Social
Services on 23rd September 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

SCHEDULE

Regulations 2, 3 and 4

Information to be contained in written notification

1. Authority's decision
2. Date of the decision
3. Reasons for the decision
4. Duration (if applicable)
5. Remedies available in case of dissatisfaction

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the steps to be taken by an authority which has refused to allow contact between a child in care and his parents and others specified in Article 53(1) of the Children (Northern Ireland) Order 1995 (“the Order”), which include notifying those persons and anyone else whose wishes and feelings the authority considers to be relevant (regulation 2).

The Regulations provide for the authority to depart from the terms of any order under Article 53 of the Order as to contact, by agreement between the authority and the person about whom the order was made, where the child agrees, if he is of sufficient understanding, and where a written notification of details of the decision is sent to the person specified in regulation 2 (regulation 3). They provide for the authority to notify those persons of details of any decision to vary or suspend any arrangements made, other than under an order under Article 53 of the Order, so as to allow any person contact with a child in care (regulation 4).

The Schedule sets out the details of the information which may be given in each case.

Article 53(8) of the Order is the enabling provision under which these Regulations are made. It was brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297) (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 434

CHILDREN

Definition of Independent Visitors (Children) Regulations

(Northern Ireland 1996)

Made..... 18th September 1996

Coming into operation..... 4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 31(7) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Definitions of Independent Visitors (Children) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

Independent visitors

2. A person appointed by an authority as an independent visitor under Article 31(1) of the Children (Northern Ireland) Order 1995 shall be regarded as independent of the authority appointing him in the following circumstances –

- (a) where the person appointed is not connected with the authority by virtue of being –
 - (i) a member of director of the authority or a member of any of its committees or sub-committees,
 - (ii) an officer of the authority, or

(a) S.I. 1995/755 (N.I.2)

(iii) a spouse of any such person;

(b) where the child who is to receive visits from the person appointed is accommodated by an organisation other than the authority and the person appointed is not –

(i) a member of that organisation,

(ii) a patron or trustee of that organisation,

(iii) an employee of that organisation, whether paid or not, or

(iv) a spouse of any such person.

Sealed with the Official Seal of the Department of Health and Social
Services on 18th September 1996.

(L.S.)

P.A. Conliffe
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations prescribe the circumstances in which a person appointed as an independent visitor is to be regarded as independent of the authority appointing him.

Regulation 2(a) provides that authority members or directors, employees and their spouses, are not to be regarded as independent. Regulation 2(b) provides that where the child is accommodated on behalf of the authority by some organisation other than an authority, certain persons connected with that organisation shall not be regarded as independent.

Article 31(7) of the Children (Northern Ireland) Order 1995 is the enabling provision under which these Regulations are made. It was brought into operation on 18th July 1996 by Article 2(1) of, Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No.461

CHILDREN

**The Review of Children's Cases Regulations
(Northern Ireland) 1996**

Made..... 30th September 1996

Coming into operation..... 4th November 1996

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Review of children's cases
3. Time when case is to be reviewed
4. Manner in which cases are to be reviewed
5. Considerations to which responsible authorities are to have regard
6. Health reviews
7. Consultation, participation and notification
8. Arrangements for implementation of decisions arising out of reviews
9. Monitoring arrangements for reviews
10. Recording review information
11. Application of the Regulations to short periods
12. Exceptions to application of the Regulations
13. Transitional provisions

SCHEDULES

1. Elements to be included in review
2. Considerations to which responsible authorities are to have regard
3. Health considerations to which responsible authorities are to have regard

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 45(1) and (2), 75(4)(a) and (5) and 105(1) and (2)(I) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Review of Children's Cases Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“guardian ad litem” means a guardian ad litem appointed pursuant to Article 60 of the Order or rules made under Article 66 of the Adoption (Northern Ireland) Order 1987(a);

“independent visitor” means an independent visitor appointed under Article 31 of the Order;

“responsible authority” means in relation to –

(a) a child who is being looked after by an authority, that authority;

(b) a child who is being provided with accommodation in a registered children's home otherwise than on behalf of an authority or voluntary organisation, the person carrying on that home.

(3) In these Regulations, any reference to a review is a reference to a review carried out in pursuance of regulation 3, 11 or 13 as the case may be.

(4) Any notice required under these Regulations is to be given in writing and may be sent by ordinary post.

Review of children's cases

2. Each responsible authority shall review in accordance with these Regulations the case of each child while he is being looked after or provided with accommodation by it.

Time when case is to be reviewed

3.-(1) Each case is first to be reviewed within 2 weeks of the date upon which the child begins to be looked after or provided with accommodation by a responsible authority.

(a) S.I. 1987/2203 (N.I.22); paragraph 166 of Schedule 9 to the Children (Northern Ireland) Order 1995 substituted a new Article 66 with effect from 19th February 1996

(2) The second review shall be carried out not more than 3 months after the first and thereafter subsequent reviews shall be carried out at intervals of not more than 6 months after the date of the previous review.

Manner in which cases are to be reviewed

4.-(1) Each responsible authority shall set out in writing its arrangements governing the manner in which the case of each child shall be reviewed and shall draw the written arrangements to the attention of those specified in regulation 7(1).

(2) The responsible authority which is looking after or providing accommodation for a child shall make arrangements to co-ordinate the carrying out of all aspects of the review of that child's case.

(3) The responsible authority shall appoint one of its officers to assist it in the co-ordination of all aspects of the review.

(4) The manner in which each case is reviewed shall, so far as practicable, include the elements specified in Schedule 1.

(5) Nothing in these Regulations shall prevent the carrying out of any review under these Regulations and any other review, assessment or consideration under any other provision at the same time.

Considerations to which responsible authorities are to have regard

5. The considerations to which the responsible authority is to have regard, so far as reasonably practicable, in reviewing each case are the general considerations specified in Schedule 2 and the considerations concerning the health of the child specified in Schedule 3.

Health reviews

6. The responsible authority shall make arrangements for a child who continues to be looked after or provided with accommodation by it to be examined by a medical practitioner and for a written assessment on the state of health of the child and his need for health care to be made –

- (a) at least once in every period of 6 months before the child's fifth birthday; and
- (b) at least once in every period of 12 months after the child's fifth birthday,

unless the child is of sufficient understanding and he refuses to submit to the examination.

Consultation, participation and notification

7.(1) Before conducting any review the responsible authority shall, unless it is not reasonably practicable to do so, seek and take into account the views of –

- (a) the child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him; and
- (d) any other person whose views the responsible authority considers to be relevant,

including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review.

(2) The responsible authority shall, so far as is reasonably practicable, involve the persons whose views are sought under paragraph (1) in the review including, where the responsible authority considers appropriate, the attendance of those persons at part or all of any meeting which is to consider the child's case in connection with any aspect of the review of that case.

(3) The responsible authority shall, so far as is reasonably practicable, notify details of the result of the review and of any decision taken by it in consequence of the review to –

- (a) the child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him;
and
- (d) any other person whom it considers ought to be notified.

Arrangements for implementation of decisions arising out of reviews

8. The responsible authority shall make arrangements itself or with other persons to implement any decision which the responsible authority proposes to make in the course of, or as a result of, the review of a child's case.

Monitoring arrangements for reviews

9. Each responsible authority shall monitor the arrangements which it has made with a view to ensuring that they comply with these Regulations.

Recording review information

10. Each responsible authority shall ensure that –

- (a) information obtained in respect of the review of a child's case;
- (b) details of the proceedings at any meeting arranged by the responsible authority at which the child's case is considered in connection with any aspect of the review of that case; and
- (c) details of any decisions made in the course of, or as a result of, the review, are recorded in writing.

Application of the Regulations to short periods

11.-(1) This regulation applies to cases in which a responsible authority has arranged that a child should be looked after or provided with accommodation for a series of short periods at the same place and the arrangement is such that no single period is to last for more than 4 weeks and the total duration of the periods is not to exceed 90 days in any period of 12 months.

(2) Regulation 3 shall not apply to a case to which this regulation applies, but instead –

- (a) each such case is first to be reviewed within 3 months of the beginning of the first of the short periods;
- (b) if the case continues, the second review shall be carried out not more than 6 months after the first; and
- (c) thereafter, if the case continues, subsequent reviews shall be carried out not more than 6 months after the date of the previous review.

(3) For the purposes of regulation 6, a child shall be treated as continuing to be looked after or provided with accommodation throughout the period that this regulation applies to his case.

Exceptions to application of the Regulations

12. These Regulations shall not apply in the case of a child who is being provided with accommodation, otherwise than on behalf of an authority or voluntary organisation in a school (as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986^(a)).*T*

Recording review information

10. Each responsible authority shall ensure that –

- (a) information obtained in respect of the review of a child's case;
- (b) details of the proceedings at any meeting arranged by the responsible authority at which the child's case is considered in connection with any aspect of the review of that case; and
- (c) details of any decisions made in the course of, or as a result of, the review, are recorded in writing.

Application of the Regulations to short periods

11.-(1) This regulation applies to cases in which a responsible authority has arranged that a child should be looked after or provided with accommodation for a series of short periods at the same place and the arrangement is such that no single period is to last for more than 4 weeks and the total duration of the periods is not to exceed 90 days in any period of 12 months.

(2) Regulation 3 shall not apply to a case to which this regulation applies, but instead –

- (a) each such case is first to be reviewed within 3 months of the beginning of the first of the short periods;
- (b) if the case continues, the second review shall be carried out not more than 6 months after the first; and
- (c) thereafter, if the case continues, subsequent reviews shall be carried out not more than 6 months after the date of the previous review.

(3) For the purposes of regulation 6, a child shall be treated as continuing to be looked after or provided with accommodation throughout the period that this regulation applies to his case.

Exceptions to application of the Regulations

12. These Regulations shall not apply in the case of a child who is being provided with accommodation, otherwise than on behalf of an authority or voluntary organisation in a school (as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a)).

Transitional provisions

13.-(1) Where immediately before 4th November 1996 a child was being looked after or provided with accommodation by a responsible authority, regulation 3 shall have effect subject to paragraphs (2) to (4).

(2) Where a child had been looked after or provided with accommodation by a responsible authority for less than 2 weeks before 4th November 1996 and –

(a) there has not been a review of the case, that child's case shall be reviewed within 2 weeks of 4 November 1996 and thereafter in accordance with regulation 3(2);

(b) there has been a review of the case before 4th November 1996, that child's case shall be reviewed thereafter in accordance with regulation 3(2).

(3) Where a child had been looked after or provided with accommodation by a responsible authority for 2 weeks or more, but for less than 3 months, before 4th November 1996 and –

(a) there has not been a review of the case, that child's case shall be reviewed within 3 months of 4 November 1996 and thereafter at intervals of not more than 6 months after the date of the previous review;

(b) there has been a review of the case before 4th November 1996, that child's case shall be reviewed thereafter at intervals of not more than 6 months after the date of the previous review.

(4) Where a child had been looked after or provided with accommodation by a responsible authority for 3 months or more, but for less than 6 months, before 4th November 1996 and –

(a) there has not been a review of the case, that child's case shall be reviewed within 6 months of the day on which the child was first looked after or provided with accommodation and thereafter at intervals of not more than 6 months after the date of the previous review.

(b) there has been a review of the case by 4th November 1996, that child's case shall be reviewed thereafter at intervals of not more than 6 months after the date of the previous review.

Sealed with the Official Seal of the Department of Health and Social
Services on 30th September 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

SCHEDULE 1

Regulation 4(4)

Elements to be included in review

1. Keeping informed of the arrangements for looking after the child and of any relevant change in the child's circumstances.
2. Keeping informed of the name and address of any person whose views should be taken into account in the course of the review.
3. Making necessary preparations and providing any relevant information to the participants in any meeting of the responsible authority which considers the child's case in connection with any aspect of the review.
4. Initiating meetings of relevant personnel of the responsible authority and other relevant persons to consider the review of the child's case.
5. Explaining to the child any steps which he may take under the Order including, where appropriate –
 - (a) his right to apply, with leave, for an Article 8 order (residence, contact and other orders with respect to children);
 - (b) where he is in care, his right to apply for discharge of the care order; and
 - (c) the availability of the procedure established under the Order for considering representations.
6. Making decisions or taking steps following review decisions arising out of, or resulting from, the review.

SCHEDULE 2

Regulation 5

**Considerations to which responsible authorities
are to have regard**

1. In the case of a child who is in care, whether an application should be made to discharge the care order.
2. Where the responsible authority is an authority, whether it should seek a change in the child's legal status.
3. Arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others, so far as is consistent with his welfare.
4. Any special arrangements that have been made or need to be made for the child, including the carrying out of assessments either by an authority or other persons, such as those in respect of special educational need under the Education and Libraries (Northern Ireland) Order 1986(a).
5. The responsible authority's immediate and long-term arrangements for looking after the child or providing the child with accommodation (made pursuant to the provisions of the Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996(b)), whether a change in those arrangements is needed and consideration of alternative course of action.
6. Where the responsible authority is an authority, whether an independent visitor should be appointed if one has not already been appointed.
7. The child's education needs, progress and development.
8. Whether arrangements need to be made for the time when the child will no longer be looked after or provided with accommodation by the responsible authority.
9. Whether plans need to be made to find a permanent substitute family for the child.

(a) S.I. 1986/594 (N.I.3)
(b) S.R. 1996 No. 453

SCHEDULE 3

Regulation 5

**Health considerations to which responsible
Authorities are to have regard**

1. The child's state of health.
2. The child's health history.
3. The effect of the child's health and health history on his development.
4. Existing arrangements for the child's medical and dental care and treatment, and health and dental surveillance.
5. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
6. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the review of the cases of children who are looked after by an authority or provided with accommodation by a voluntary organisation or in a registered children's home.

The Regulations make provision for the review of such cases (regulation 2); the time when cases are to be reviewed (regulation 3); the manner in which cases are to be reviewed (regulation 4 and Schedule 1); the considerations to which there should be regard (regulation 5 and Schedules 2 and 3); health reviews (regulation 6); consultation and participation in reviews and notification of results of reviews (regulation 7); the arrangements for implementation of decisions arising out of reviews (regulation 8); monitoring the arrangements for reviews (regulation 9); recording review information (regulation 10); application of the Regulations to children accommodated for short periods (regulation 11); exceptions to the application of the Regulations (regulation 12) and transitional arrangements in relation to certain children accommodated before 4th November 1996 (regulation 13).

Articles 45(1) and (2), 75(4)(a) and (5) and 105(1) and (2)(I) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No.3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No.451

CHILDREN

**The Representation Procedure (Children) Regulations
(Northern Ireland) 1996**

Made..... 25th September 1996

Coming into operation..... 4th November 1996

ARRANGEMENT OF REGULATIONS

PART I

INTRODUCTORY

1. Citation, commencement and interpretation

PART II

REPRESENTATIONS AND THEIR CONSIDERATION

2. Authority action
3. Preliminaries
4. Appointment of independent person
5. Consideration by authority with independent person
6. Withdrawal of representations
7. Notification to complainant and reference to panel
8. Recommendations

PART III

REVIEW OF PROCEDURE

9. Monitoring of operation of procedure

PART IV

APPLICATION OF THE REGULATIONS TO VOLUNTARY ORGANISATIONS AND REGISTERED CHILDREN'S HOMES AND IN SPECIAL CASES

10. Application to voluntary organisations and registered children's homes
11. Exceptions to application of Regulations
12. Special cases including application to representations by foster parents

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 37(2), 45(5) and (6), 75(4) and (5), 105(1) and (2)(I) of, and paragraph 6(2) of Schedule 5 to, the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

INTRODUCTORY

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Representations Procedure (Children) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“complainant” means a person qualifying for advice and assistance about the discharge of an authority's functions under Part IV of the Order in relation to him, or a person specified in Article 45(3)(a) to (e) of the Order making any representations;

“independent person” means in relation to representations made to, or treated as being made to, an authority, a person who is neither a member nor a director nor an officer of that authority, nor the spouse of any such person;

“panel” means a panel of 3 persons;

“representations” means representations referred to in Article 37(1) or 45(3) of the Order.

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

PART II

REPRESENTATIONS AND THEIR CONSIDERATION

Authority action

2.-(1) An authority shall appoint one of its officers to assist it in the co-ordination of all aspects of its considerations of representations.

(2) An authority shall take all reasonable steps to ensure that everyone involved in the handling of representations, including independent persons, is familiar with the procedure set out in these Regulations.

Preliminaries

3.-(1) Where an authority receives representations from any complainant, except from a person to whom Article 45(3)(e) of the Order may apply, the authority shall send to the complainant an explanation of the procedure set out in these Regulations, and offer assistance and guidance on the use of the procedure, or give advice on where he may obtain it.

(2) Where oral representations are made, an authority shall forthwith cause them to be recorded in writing, and sent to the complainant, who shall be given the opportunity to comment on the accuracy of the record.

(3) An authority shall consider any comments made by the complainant under paragraph (2) and shall make any amendments to the record which it considers to be necessary.

(4) For the purposes of the following provisions of these Regulations, the written record referred to in paragraph (2), as amended where appropriate in accordance with paragraph (3), shall be deemed to be the representations.

(5) Where an authority receives representations from a person to whom it considers Article 45(3)(e) of the Order may apply, the authority shall –

- (a) forthwith consider whether the person has a sufficient interest in the child's welfare to warrant his representations being considered by the authority;
- (b) if the authority considers that he has a sufficient interest, cause the representations to be dealt with in accordance with the provisions of these Regulations, and send to the complainant an explanation of the procedure set out in the Regulations, and offer assistance and guidance on the use of the procedure, or give advice on where he may obtain it;
- (c) if the authority considers that he has not got a sufficient interest it shall notify him accordingly, and inform him that no further action will be taken;
- (d) if the authority considers it appropriate to do so having regard to his understanding, it shall notify the child of the result of its consideration.

(6) Where paragraph (5)(b) applies, the date at which the authority concludes that the person has a sufficient interest shall be treated for the purposes of these Regulations as the date of receipt of the representations.

Appointment of independent person

4. Where an authority receives representations under regulation 3, it shall appoint an independent person to take part in the consideration of them, unless regulation 3(5)(c) applies.

Consideration by authority with independent person

5.-(1) An authority shall consider the representations with the independent person and formulate a response within 28 days of their receipt.

(2) The independent person shall take part in any discussions which are held by the authority about the action, if any, to be taken in relation to the child in the light of the consideration of the representations.

Withdrawal of representations

6. The representations may be withdrawn at any stage by the person making them.

Notification to complainant and reference to panel

7.-(1) An authority shall give notice within the period specified in regulation 5 to –

- (a) the complainant;
- (b) if different, the person on whose behalf the representations were made, unless the authority considers that he is not of sufficient understanding or it would be likely to cause serious harm to his health or emotional condition;
- (c) the independent person;
- (d) any other person whom the authority considers has sufficient interest in the case,

of the proposed result of the authority's consideration of the representations and the complainant's right to have the matter referred to a panel under paragraph (2).

(2) If the complainant informs the authority in writing within 28 days of the date on which notice is given under paragraph (1) that he is dissatisfied with the proposed result and wishes the matter to be referred to a panel for consideration of the representations, a panel shall be appointed by the authority for that purpose.

(3) The panel shall include at least one independent person.

(4) The panel shall meet within 28 days of the receipt by the authority of the complainant's request that the matter be referred to a panel.

(5) At that meeting the panel shall consider –

- (a) any oral or written submissions that the complainant or the authority wish to make;
and
- (b) if the independent person appointed under regulation 4 is different from the independent person on the panel, any oral or written submissions which the independent person appointed under regulation 4 wishes to make.

(6) If the complainant wishes to attend the meeting of the panel he may be accompanied throughout the meeting by another person of his choice, and may nominate that other person to speak on his behalf.

Recommendations

8.-(1) When a panel meets in accordance with regulation 7, it shall decide on its recommendations and record these with its reasons in writing within 24 hours of the end of the meeting.

(2) The panel shall give notice of its recommendations to –

- (a) the authority;
- (b) the complainant;
- (c) the independent person appointed under regulation 4, if different from the independent person on the panel;
- (d) any other person whom the authority considers has sufficient interest in the case.

(3) The authority shall, together with the independent person appointed to the panel under regulation 7(3), consider what action, if any, should be taken in relation to the child in the light of the representation, and that independent person shall take part in any discussions about any such action.

PART III

REVIEW OF PROCEDURE

Monitoring of operation of procedure

9.-(1) Each authority shall monitor the arrangements that it has made with a view to ensuring that they comply with the Regulations by keeping a record of each representation received, the outcome of each representation, and whether there was compliance with the time limits specified in regulations 5(1), 7(4) and 8(1).

(2) For the purposes of such monitoring, each authority shall, at least once in every period of 12 months, compile a report on the operation in that period of the procedure set out in these Regulations.

(3) The first report referred to in paragraph (2) shall be compiled within 12 months of the date of coming into operation of these Regulations.

PART IV

APPLICATION OF THE REGULATIONS TO VOLUNTARY ORGANISATIONS AND REGISTERED CHILDREN'S HOMES AND IN SPECIAL CASES

Application to voluntary organisations and registered children's homes

10.-(1) The provisions of Parts I to III shall apply where accommodation is provided for a child by a voluntary organisation, and he is not looked after by an authority, as if –

- (a) for references to “authority” there were substituted references to “voluntary organisation”;
- (b) for the definition in regulation 1(2) of “complainant” there were substituted –
““complainant” means –
 - (a) any child who is being provided with accommodation by a voluntary organisation;
 - (b) a parent of his;
 - (c) any person who is not a parent of his but who has parental responsibility for him;
 - (d) such other person as the voluntary organisation considers has a sufficient interest in the child's welfare to warrant his representations being considered by them;”;
- (c) for the definition in regulation 1(2) of “independent person” there were substituted –
““independent person” means in relation to representations made to, or treated as being made to, a voluntary organisation, a person who is not an officer of that voluntary organisation nor a person engaged in any way in furthering its objects, nor the spouse of any such person;”;
- (d) for the definition in regulation 1(2) of “representations” there were substituted –

“representations” means representations referred to in Article 75(4) of the Order about the discharge by the voluntary organisation of any of the organisation’s functions relating to Article 76 of the Order and any Regulations made under Article 75(4) of the Order in relation to the child;”; and

(e) for the reference in regulation 3(1) and (5) to a person to whom Article 45(3) of the Order may apply or to whom the authority considers Article 45(3)(e) of the Order may apply, there was substituted a reference to a person who may fall within sub-paragraph (d) in the definition of “complainant” in these Regulations.

(2) The provisions of Parts I to III shall apply where accommodation is provided for a child in a registered children’s home, but where the child is neither looked after by an authority nor accommodated on behalf of a voluntary organisation, as if –

(a) for references to “authority” there were substituted references to “the person carrying on the home”;

(b) for the definition in regulation 1(2) of “complainant” there were substituted –

“complainant” means –

(a) any child who is being provided with accommodation in a registered children’s home;

(b) a parent of his;

(c) any person who is not a parent of his but who has parental responsibility for him;

(d) such other person as the person carrying on the home considers has a sufficient interest in the child’s welfare to warrant his representations being considered by them;”;

(c) for the definition in regulation 1(2) of “independent person” there were substituted –

“independent person” means in relation to representations made to a person carrying on a registered children’s home, a person who is neither involved in the management or operation of that home nor financially interested in its operation, nor the spouse of any such person;”;

(d) for the definition in regulation 1(2) of “representations” there were substituted –

“representations” means any representations (including any complaint) made in relation to the person carrying on the registered children’s home by a complainant about the discharge of his functions relating to Article 92 of the Order;”;
and

(e) for the reference in regulation 3(1) and (5) to a person to whom Article 45(3)(e) of the Order may apply or to whom the authority considers Article 45(3)(e) of the Order may apply, there was substituted a reference to a person who may fall within sub-paragraph (d) in the definition of “complainant” in these Regulations.

Exceptions to application of Regulations

11. These Regulations shall not apply to representations made by a child or a person in respect of a child who is being provided with accommodation, otherwise than by an authority or voluntary organisation, in a school (as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a)).

Special cases including application to representation by foster parents

12.-(1) Where representations would fall to be considered by more than one authority, they shall be considered by the authority which is looking after the child or by the authority within whose area the child is ordinarily resident where no authority has that responsibility.

(2) The provisions of Parts I to III and regulation 12(1), shall apply to the consideration by an authority of any representations (including any complaint) made to the authority by any person exempted or seeking to be exempted under paragraph 4 of Schedule 5 to the Order (foster parents; limits on numbers of foster children) about the discharge of the authority’s functions under that paragraph, as if –

(a) for the definition in regulation 1(2) of “complainant” there were substituted –

“complainant” means a person exempted or seeking to be exempted under paragraph 4 of Schedule 5 to the Order making any representations;”;

(b) for the definition in regulation 1(2) of “representations” there were substituted –

“representations” means representations referred to in paragraph 6 of Schedule 5 to the Order;”;

(c) in regulation 3(1) the words “except from a person to whom Article 45(3)(e) of the Order may apply”, were omitted; and

(d) regulation 3(5) and (6) were omitted.

Sealed with the Official Seal of the Department of Health and Social Services on 25th September 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations establish a procedure for considering representations (including complaints) made to an authority about the discharge by the authority of any of its functions –

- (a) under Part IV of the Children (Northern Ireland) Order 1995 (“the Order”) in relation to a child looked after but or in need;
- (b) where Article 37(1) of the Order applies (representations concerning advice and assistance for certain children aged 18 to 21);
- (c) under paragraph 4 of Schedule 5 to the Order (foster parents: limits on number of foster children) in relation to exemption from the usual fostering limit.

The Regulations apply, with modifications, the procedure for considering representations (including complaints) to voluntary organisations and persons carrying on registered children’s homes.

The Regulations make provision to include consideration of representations by an independent person and for reference of representations to a panel which is to make recommendations to the authority, organisation or person carrying on the home.

The Regulations also make provision for a record to be kept of all representations received and their outcome in order to monitor the operation of the procedure and for a report on the operation of the procedure to be prepared every 12 months.

Articles 37(2), 45(5) and (6), 75(4) and (5), 105(1) and (2)(I) of, and paragraph 6(2) of Schedule 5 to, the Order are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No.452

CHILDREN

**The Children (Private Arrangements for Fostering)
Regulations (Northern Ireland) 1996**

Made..... 25th September 1996

Coming into operation..... 4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 108(2) and 112(1) and (2) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Children (Private Arrangements for Fostering) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“address” includes a temporary address; and

“appropriate authority” has the meaning assigned to it by Article 111(6) of the Order.

(a) S.I. 1995/755 (N.I.2)

General welfare of children

2.(1) In carrying out functions under Article 108 of the Order, as to the welfare of children who are privately fostered within its area, an authority (including any officer of the authority making a visit under regulation 3) shall satisfy itself as to such of the matters specified in paragraph (2) as are relevant in the particular circumstances.

(2) The matters referred to in paragraph (1) are –

- (a) the purpose and intended duration of the fostering arrangement;
- (b) the child's physical, intellectual, emotional, social and behavioural development;
- (c) whether the child's needs arising from his religious persuasion, racial origin and cultural and linguistic background are being met;
- (d) the financial arrangements for the care and maintenance of the child;
- (e) the suitability of the accommodation;
- (f) the arrangements for the child's medical and dental care and treatment and, in particular, that the child is included on the list of a general medical practitioner who provides general medical services under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972^(a);
- (g) the arrangements for the child's education and, in particular, that the education and library board within whose area the foster parent lives has been informed of the fostering arrangement;
- (h) the standard of care which the child is being given;
- (i) the suitability of the foster parent to look after the child and the suitability of the foster parent's household;
- (j) whether the foster parent is being given any necessary advice;

^(a) S.I. 1972/1265 (N.I.14)

- (k) whether the contact between the child and his parents, or any other person with whom contact has been arranged, is satisfactory;
- (l) whether the child's parents, or any other person, are exercising parental responsibility for the child; and
- (m) the ascertainable wishes and feelings of the child regarding the fostering arrangements.

Visits to children

3.-(1) An authority shall make arrangements for each child who is privately fostered within its area to be visited by an officer of the authority as the authority considers necessary in order to safeguard and promote the welfare of the child and when reasonably requested by the child or foster parent and in particular –

- (a) in the first year of the fostering arrangement, within one week from its beginning and then at intervals of not more than 6 weeks;
- (b) in any second or subsequent year, at intervals of not more than 3 months where the authority considers the placement to be satisfactory.

(2) For the purposes of making visits under this regulation the officer shall, if he considers it appropriate, arrange to see the child alone.

(3) The officer shall make a written report to the authority after each visit.

Notifications by prospective and actual foster parents

4.-(1) Any person who proposes to foster privately a child for whom he is not already caring and providing accommodation shall notify the appropriate authority not less than 6, nor more than 13, weeks before he receives the child, unless he receives him in an emergency.

(2) A person who is privately fostering a child –

- (a) whom he received in an emergency; or
- (b) for whom he was already caring and providing accommodation when he became a foster child,

shall notify the appropriate authority not more than 48 hours after the fostering arrangements began.

(3) A notice under paragraph (1) or (2) shall specify –

- (a) the name, sex, date and place of birth, religious persuasion, racial origin and cultural and linguistic background of the child;
- (b) the name and address of the person giving the notice and any previous address within the last 5 years;
- (c) the purpose and intended duration of the fostering arrangement;
- (d) the name and address of any parent of the child and of any other person who has parental responsibility for the child and (if different) of any person from whom the child was, or is to be, received;
- (e) the name and address of any person, other than a person specified in sub-paragraph (d), who is involved directly or indirectly in making the fostering arrangement; and
- (f) the intended date of the beginning of the fostering arrangement or, as the case may be, the date on which the arrangement actually began.

(4) A person giving notice under paragraph (1) or (2) shall include in the notice particulars of *f*–

- (a) any offence of which he has been convicted;

(b) any disqualification or prohibition imposed on him under (as the case may be) Article 109 or 110 of the Order or any refusal of consent under section 1 of the Children and Young Persons Act (Northern Ireland) 1968(a) or section 2 of the Children and Young Persons Act (Northern Ireland) 1950(b); and

(c) any such conviction, disqualification or prohibition imposed on any other person living in, or employed at, the same household.

(5) Any person who is fostering a child privately shall notify the appropriate authority of –

(a) any change in his address;

(b) any person who begins, or ceases, to be part of his household; and

(c) any further conviction, disqualification or prohibition as mentioned in sub-paragraph (a) to (c) of paragraph (4).

(6) A notice under paragraph (5) shall be given –

(a) in advance if practicable; and

(b) in any other case, not more than 48 hours after the change of circumstances,

and if the new address is in the area of another authority, the authority to whom the notice is given shall inform the other authority of the new address and of the particulars given to it under sub-paragraphs (a) and (d) of paragraph (3).

(7) Paragraphs (4)(a) and (c) and (5)(c) are subject to the Rehabilitation of Offenders (Northern Ireland) Order 1978(c).

Notifications of former foster parents

5.-(1) Subject to paragraphs (2) and (3), any person who has been fostering a child privately, but has ceased to do so, shall notify the appropriate authority within 48 hours and shall include in the notice the name and address of the person into whose care the child was received.

(a) 1968 c.34 (N.I.); section 1 is repealed from 4th November 1996 by the Children (Northern Ireland) Order 1995

(b) 1950 c.5 (N.I.); section 2 was repealed by the Children and Young Persons Act (Northern Ireland) 1968

(c) S.I. 1978/1908 (N.I. 27)

(2) Where the reason for the ending of the fostering arrangement is the death of the child, the foster parent shall notify forthwith the appropriate authority and also the person from whom the foster parent received the child.

(3) Paragraph (1) shall not apply where the foster parent intends to resume the fostering arrangement after an interval of not more than 27 days, but if –

- (a) he subsequently abandons his intention; or
- (b) the interval expires without his having given effect to his intention,

he shall thereupon give notice to the appropriate authority within 48 hours of abandoning his intention or, as the case may be, the expiry of the interval.

Other notifications

6.-(1) Any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately shall notify the appropriate authority not less than 6, nor more than 13, weeks before the fostering arrangement begins unless the fostering arrangement is made in an emergency in which case the notification shall be not more than 48 hours after the fostering arrangement began.

(2) A parent of a child, and any other person who has parental responsibility for the child, who knows that it is proposed that the child should be fostered privately shall notify the appropriate authority not less than 6, nor more than 13, weeks before the fostering arrangement begins unless the fostering arrangement is made in an emergency in which case the notification shall be not more than 48 hours thereafter.

(3) Any notice under paragraph (1) or (2) shall specify –

- (a) the information mentioned in sub-paragraphs (a) to (c) of regulation 4(3);
- (b) the arrangements for the care of any brother or sister of the child who is not included in the fostering arrangement;
- (c) the name and address of any other person involved (whether or not directly) in the fostering arrangement;
- (d) where the notice is given under paragraph (1), the relationship to the child of the person giving the notice and also the information specified in sub-paragraph (d) of regulation 4(3).

(4) Any parent of a privately fostered child, and any other person who has parental responsibility for the child, shall notify the appropriate authority of –

- (a) the ending of the fostering arrangement; and
- (b) any change in his own address.

Form of notifications

7. Any notice required under regulations 4 to 6 shall be given in writing and may be sent by ordinary post.

Sealed with the Official Seal of the Department of Health and Social
Services on 25th September 1996.

(L.S.)

P.A. Conliffe
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the arrangements for fostering children privately and supplement the provisions contained in Part X of the Children (Northern Ireland) Order 1995 (“the Order”).

The Regulations make provision for the matters as to which an authority is required to satisfy itself regarding the welfare of privately fostered children (regulation 2); for the occasions on which an officer of the authority is to visit privately fostered children (regulation 3); as to notifications by prospective and actual foster parents (regulation 4) and by former foster parents (regulation 5); and as to other notifications (regulation 6) and to the form of notifications (regulation 7). Failure to comply with the provisions for notification may be an offence under Article 117(1)(a) of the Order.

Articles 108(2) and 112(1) and (2) of the Order are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No.3) Order (Northern Ireland) 1996 (S.R. 1996 No 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No.478

CHILDREN

**The Disqualification For Caring for Children
(Northern Ireland) 1996**

Made..... 8th October 1996

Coming into operation..... 4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 109(1) and (2) and 122(1) and (2) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Disqualification for Caring for Children Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations “the Order” means the Children (Northern Ireland) Order 1995.

Disqualification from fostering a child privately or registration under Part XI of the Order

2. For the purposes of Articles 109 (persons disqualified from being private foster parents) and 122 (persons disqualified from child minding or providing day care) of the Order, a person is disqualified from fostering a child privately or registering under Article 118 of the Order (registration for child minding and day care) if –

(a) he is a parent of a child who at any time has been made the subject of an order under

–

(i) Article 50(1)(a) of the Order (care order),

(ii) section 31(1)(a) of the Children Act 1989(b) (care order),

(a) S.I. 1995/755 (N.I.2)
(b) 1989 c.41

(iii) section 44(1) of the Social Work (Scotland) Act 1968(a)
(supervision requirement);

(b) one of the following orders has been made at any time with respect to a child so as to remove the child from his care or prevent the child living with him –

(i) an order under Article 50(1)(a) of the Order (care order),

(ii) any order that would have been deemed to be a care order by virtue of paragraph 11, 12 or 30 of Schedule 8 to the Order (transitional provisions for children in compulsory care) had it been in operation immediately before the day on which Part V of the Order comes into operation,

(iii) a fit person order or training school order made under the Children and Young Persons Act (Northern Ireland) 1968(b) or the Children and Young Persons Act (Northern Ireland) 1950(c),

(iv) a parental rights order under section 104 of the Children and Young Persons Act (Northern Ireland) 1968(d) or section 82 of the Children and Young Persons Act (Northern Ireland) 1950,

(v) an order under this section 31(1)(a) of the Children Act 1989 or an order under section 1(3)(c) or 7(7)(a) of the Children and Young Persons Act 1969(e) (care orders),

(vi) any other order that would have been deemed to be a care order by virtue of paragraph 15 of Schedule 14 to the Children Act 1989 (transitional provisions for children in compulsory care) had it been in force immediately before the day on which Part IV of that Act came into force,

(vii) a supervision order which imposes a residence requirement under section 12AA of the Children and Young Persons Act 1969(f) (requirement that young offender live in local authority accommodation), or

(a) 1968 c.49

(b) 1968 c.34 (N.I.)

(c) 1950 c.5 (N.I.); the whole Act was repealed by Schedule 8 to the Children and Young Persons Act (Northern Ireland) 1968, except for certain provisions which are not relevant to these Regulations

(d) Part VI of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

(e) 1969 c.54; sections 1(3)(c) and 7(7)(a) were repealed by Schedule 15 to the Children Act 1989

(f) Section 12AA was inserted by paragraph 23 of Schedule 12 to the Children Act 1989 and amended by Schedule 13 to the Criminal Justice Act 1991 (c.53)

- (viii) an approved school order or a fit person order under section 9(1)(a) or (b) of the Children and Young Persons Act 1933(a) or section 61(1)(a) or (b) of the Children and Young Persons (Scotland) Act 1937(b);
- (c) a supervision requirement has been imposed under section 44(1) of the Social Work (Scotland) Act 1968 at any time with respect to any child for the purpose of removing that child from his care, or his rights and powers with respect to any child had at any time been vested in a local authority in Scotland under that Act or the Children Act 1948(c);
- (d) an order has been made at any time, for the purposes of removing a child who was being kept, or was about to be received, by him, under –
- (i) Article 35 of the Adoption (Northern Ireland) Order 1987(d) (removal of protected children from unsuitable surroundings),
- (ii) section 34 of the Adoption Act 1976(e) or section 43 of the Adoption Act 1958(f) (removal of protected children from unsuitable surroundings), or
- (iii) section 34 of the Adoption (Scotland) Act 1978(g) (removal of protected children from unsuitable surroundings);
- (e) an order removing a child from his care has been made at any time under –
- (i) section 8(1) of the Children and Young Persons Act (Northern Ireland) 1968(h) or section 6(1) of the Children and Young Persons Act (Northern Ireland) 1950 (removal of foster children),
- (ii) section 12 of the Foster Children Act 1980(i) or Part I of the Children Act 1958(j) (removal of foster children), or
- (iii) section 12 of the Foster Children (Scotland) Act 1984(k) (removal of foster children);

-
- (a) 1933 c.12 section 9 was repealed by the Schedule to the Scrap Metal Dealers Act 1964 (c.69)
- (b) 1937 c.37; section 61 was repealed by Schedule 9 to the Social Work (Scotland) Act 1968
- (c) 1948 c.43; the whole Act, as it extends to Scotland, was repealed by Schedule 9 to the Social Work (Scotland) Act 1968
- (d) S.I. 1987/2203 (N.I.22); Article 35 is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995
- (e) 1976 c.36; section 34 was repealed by Schedule 15 to the Children Act 1989
- (f) 1958 c.5; the whole Act was repealed by Schedule 4 to the Adoption Act 1976
- (g) 1978 c.28
- (h) Part I of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995
- (i) 1980 c.6; the whole Act was repealed by Schedule 15 to the Children Act 1989
- (j) 1958 c.65; the whole Act was repealed by the Foster Children Act 1980
- (k) 1984 c.56

(g) there has been a refusal to register a voluntary home in relation to an application made by him under –

- (i) Article 80 of the Order (application for registration),
- (ii) section 127(2) and (3) of the Children and Young Persons Act (Northern Ireland) 1968(a) or section 99(2) and (3) of the Children and Young Persons Act (Northern Ireland) 1950 (application for registration), or
- (iii) paragraph 1(1) and (2) of Schedule 5 to the Children Act 1989 or section 57(2) and (3) of the Child Care Act 1980(b) (application for registration);

(h) he is a person who carried on, or was otherwise concerned with the management of, or had any financial interest in, a voluntary home which was removed from the register under –

- (i) Article 82 of the Order (cancellation of registration),
- (ii) Article 87 of the Order (appeals),
- (iii) section 127(4) of the Children and Young Persons Act (Northern Ireland) 1968 or section 99(4) of the Children and Young Persons Act (Northern Ireland) 1950 (cancellation of registration),
- (iv) section 128 of the Children and Young Persons Act (Northern Ireland) 1968 or section 100 of the Children and Young Persons Act (Northern Ireland) 1950 (appeals),
- (v) paragraph 1(4) of Schedule 5 to the Children Act 1989 or section 57(4) of the Child Care Act 1980 (cancellation or registration), or
- (vi) paragraph 5 of Schedule 5 to the Children Act 1989 or section 58 of the Child Care Act 1980 (appeals);

(i) there has been a refusal to register a registered children's home in relation to an application made by him under –

(a) Part VIII of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

(b) 1980 c.5; the whole Act was repealed by Schedule 15 to the Children Act 1989

- (i) Article 96 of the Order (application for registration), or
 - (ii) paragraph 1 of Schedule 6 to the Children Act 1989 (application for registration);
- (j) he is a person who carried on, or was otherwise concerned with the management of, or had any financial interest in, a registered children's home and that home was removed from the register under –
 - (i) Article 98 of the Order (cancellation of registration),
 - (ii) Article 103 of the Order (appeals),
 - (iii) paragraph 4 of Schedule 6 to the Children Act 1989 (cancellation of registration), or
 - (iv) paragraph 8 of Schedule 6 to the Children Act 1989 (appeals);
- (k) he is a person in respect of whom a prohibition has been imposed under -
 - (i) Article 100 of the Order (power to prohibit private fostering),
 - (ii) a notice in writing is given by a Board or Health and Social Services Trust under section 1(3) of the Children and Young Persons Act (Northern Ireland) 1968 (withholding consent to the care and maintenance of a child being undertaken by a person),
 - (iii) section 69 of the Children Act 1989, section 10 of the Foster Children Act 1980 or Part I of the Children Act 1958 (power to prohibit private fostering), or
 - (iv) section 10 of the Foster Children (Scotland) Act 1984 (power to prohibit private fostering);
- (l) he has at any time been refused registration in respect of nurseries, day care or child minding or had any such registration cancelled under –
 - (i) Part XI of the Order (child minding and day care for young children),

(ii) section 11(5) (refusal to register) or section 15 (cancellation of registration) of the Children and Young Persons Act (Northern Ireland) 1968,

(iii) Part X of the Children Act 1989 (child minding and day care for young children), or

(iv) section 1 (refusal to register) or section 5 (cancellation of registration) of the Nurseries and Child Minders Regulation Act 1948^(a); or

(m) he has at any time been refused registration or had such registration cancelled under section 62 of the Social Work (Scotland) Act 1968^(b) (registration of establishments).

Sealed with the Official Seal of the Department of Health and Social
Services on 8th October 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

(a) 1948 c.53; the whole Act was repealed by Schedule 15 to the Children Act 1989

(b) Section 62 was amended by section 3 of the Registered Establishments (Scotland) Act 1987 (c.40)

SCHEDULE

Regulation 2(f)

Offences which disqualify persons from private fostering and registering under Article 118 of the Order

1. Offences specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968(a), the Homosexual Offences (Northern Ireland) Order 1982(b), Schedule 1 to the Children and Young Persons Act 1933(c) and Schedule 1 to the Criminal Procedure (Scotland) Act 1975(d).

2. Any offence involving injury or threat of injury to another person.

3. Offences under any of the following –

(a) Article 37(1)(b) or (c) of the Adoption (Northern Ireland) Order 1987(e), section 36(1)(b) or (c) of the Adoption Act 1976(f) or section 36(1)(b) or (c) of the Adoption (Scotland) Act 1978 (refusing to allow the visiting of a protected child or inspection of the premises or refusing to comply with or obstructing the removal of the child);

(b) Article 63(15), 68 or 69(9) of the Order, section 9(1)(e) and (f), 32(3), 140(6) or 144(3) of the Children and Young Persons Act (Northern Ireland) 1968(g), section 44(15), 49 or 50(9) of the Children Act 1989, section 17(8) or 71 of the Social Work (Scotland) Act 1968, or sections 6 to 10 of the Child Abduction Act 1984(h) or section 32(3) of the Children

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- (a) 1968 c.34 (N.I.); Schedule 1 has been amended by Article 12 of, and Schedule 1 to, the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I.6)); Article 7(2) of the Child Abduction (Northern Ireland) Order 1985 (S.I. 1985/1638 (N.I.17)); Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I.4)) and paragraph 54 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I.2)). Reference in the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I.17)) to offences under Schedule 1 include an offence under the Protection of Children (Northern Ireland) Order 1978
- (b) S.I. 1982/1536 (N.I.19)
- (c) 1933 c.12; Schedule 1 has been amended by sections 48 and 51 of, and Schedules 3 and 4 to, the Sexual Offences Act 1956 (c.69), section 1(5) of the Protection of Children Act 1978 (c.37) as supplemented by section 160 of the Criminal Justice Act 1988 (c.33) and further amended by section 170 of, and paragraphs 8 and 9 of Schedule 15 to, that Act and Schedule 16 to that Act
- (d) 1975 c.21; Schedule 1 has been amended by section 21 of, and Schedules 1 and 2 to, the Sexual Offences (Scotland) Act 1976 (c.67); section 3(2) of, and Schedule 2 to, the Incest and Related Offences Act 1986 (c.36) and section 170 of, and paragraphs 50 and 51 of Schedule 15 to, the Criminal Justice Act 1988
- (e) Article 37(1)(c) is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995
- (f) Section 36(1)(c) was repealed by Schedule 15 to the Children Act 1989
- (g) Part I and section 32 of the Act are repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995
- (h) 1984 c.37

and Young Persons Act 1969(a); (offences of intentional obstruction of a person executing an emergency protection order, a place of safety order, or abduction or obstruction of lawful recovery of an abducted child);

(c) Article 132 of the Order, section 14 of the Children and Young Persons Act (Northern Ireland) 1968 or section 78 of the Children Act 1989 (providing day care or acting as a child minder in unregistered premises or contravening an enforcement order);

(d) Article 79(3) of the Order, section 127(5) or 129(3) of the Children and Young Persons Act (Northern Ireland) 1968(b), section 99(5) or 101(3) of the Children and Young Persons Act (Northern Ireland) 1950, paragraph 1(5) of Schedule 5 to the Children Act 1989, section 57(5) of the Child Care Act 1980 or section 29(5) of the Children Act 1948 (carrying on a voluntary home without it being registered or in contravention of a condition attached to registration);

(e) Article 95(3) of the Order or section 63(10) of the Children Act 1989 (caring for and accommodating a child in a children's home which is not registered), or Article 97(4) of the Order or paragraph 2(3) of Schedule 6 to the Children Act 1989 (breach of conditions attaching to registration of registered children's home);

(f) Article 117 of the Order, section 9(1) of the Children and Young Persons Act (Northern Ireland) 1968, section 2(8) of the Children and Young Persons Act (Northern Ireland) 1950, section 70 of the Children Act 1989, section 16 of the Foster Children Act 1980, section 14 of the Children Act 1958 or section 15 of the Foster Children (Scotland) Act 1984 (offences in respect of private fostering);

(g) section 6(5), 60(3), 61, 62 or 68(3) of the Social Work (Scotland) Act 1968 (refusal of registration and offences in respect of day care or residential care);

(h) the common law offence in Scotland of plagiary (theft of a child below the age of puberty);

or

(i) section 52(1)(a) or section 52A of the Civic Government (Scotland) Act 1982^(c) (offences relating to indecent photography of children).

(a) 1969 c.54 section 32(3) was amended by paragraph 16 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41)

(b) Part VIII of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

(c) 1982 c.45; section 52A was inserted by section 161 of the Criminal Justice Act 1988

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations specify various circumstances in which a person –

- (a) is disqualified from fostering a child privately; and
- (b) is disqualified from being registered as a child minder on domestic premises or as a person who provides day care for children under the age of 12 on non-domestic premises.

Articles 109(1) and (2) and 122(1) and (2) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No.3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

**SPECIMENT CONSENT FORM FOR POLICE CHECKS
(PRIVATELY FOSTERED CHILDREN)**

DECLARATION REGARDING SUITABILITY OF HOUSEHOLD MEMBERS

To Be Completed In Respect Of All Members Of The Household Over 10 Years

FULL NAME DATE OF BIRTH

FULL NAME DATE OF BIRTH

FULL NAME DATE OF BIRTH

FULL NAME DATE OF BIRTH

FULL NAME DATE OF BIRTH

ADDRESS

..... POST CODE

HAS ANY HOUSEHOLD MEMBER EVER

**YES NO
PLEASE TICK**

- 1. Been convicted of any offences involving a child () ()
- 2. Had a child removed from his care by order of any Court or Trust () ()
- 3. Had registration under Part XI of the Children (NI) Order 1995 refused or cancelled (child minding) () ()
- 4. Had his rights and duties with respect to any child vested in a Trust () ()
- 5. Had a prohibition imposed on him at any time () ()
- 6. Been disqualified from acting as a foster parent () ()

If you have answered YES to any of the above questions, please provide details including names, dates and circumstances on a separate sheet.

SIGNED DATE

