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STATUTORY INSTRUMENTS

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1988 No. 2184

**CHILDREN AND YOUNG PERSONS**

**The Boarding-out of Children (Foster Placement)  
Regulations 1988**

*Made - - - - - 12th December 1988*

*Laid before Parliament 22nd December 1988*

*Coming into force 1st June 1989*

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The Secretary of State for Health, in exercise of the powers conferred by sections 22, 61 and 85(1) and (4) of the Child Care Act 1980(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Boarding-out of Children (Foster Placement) Regulations 1988 and shall come into force on 1st June 1989.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Child Care Act 1980;

“the 1969 Act” means the Children and Young Persons Act 1969(b);

“area authority” in relation to a child means the local authority(c) for the area in which the household in which the child is placed is situated where the child is not in the care of that authority;

“approved household” means a household approved under regulation 3 of these Regulations;

“care authority” in relation to a child means the local authority in whose care the child is under section 2 of the Act (duty of local authority to provide for orphans, deserted children etc), by virtue of a care order(d) or a warrant under section 23(1) of the 1969 Act (which relates to remands to the care of local authorities) or under any other enactment by virtue of which Part III of the Act (which relates to children in the care of a local authority) applies to the child(e);

“custodian” in relation to a child means the person in whom legal custody of the child is vested under a custodianship order under section 33(1) of the Children Act 1975(f);

“foster home” means the household in which a child is placed;

“foster parent” means the person with whom a child is for the time being placed or may be placed;

“guardian ad litem” means a guardian ad litem appointed in pursuance of section 32B of the 1969 Act(g) under rules made under section 65 of the Adoption Act 1976(h) or in pursuance of section 7 or section 12F of the Act(i);

(a) 1980 c.5; section 85(4) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 2, paragraph 58(b) and by the Children and Young Persons (Amendment) Act 1986 (c.28), section 1(2).

(b) 1969 c.54.

(c) “local authority” is defined in section 87(1) of the Act as the council of a county (other than a metropolitan county) of a metropolitan district or of a London Borough or the Common Council of the City of London.

(d) A care order is an order committing a person to the care of a local authority under the 1969 Act: *see* section 87(1) of the Act and section 20 of the 1969 Act.

(e) Part III of the Act applies also to children committed to the care of a local authority under the following provisions:

(i) section 3(2) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 (c.48): that Act was repealed by Schedule 3 to the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22), but by virtue of paragraph 3 of Schedule 1 to the 1978 Act orders made under the 1960 Act are not affected;

(ii) section 7(2) of the Family Law Reform Act 1969 (c.46), as amended by paragraph 23 of Schedule 5 to the Act;

(iii) section 43(1) of the Matrimonial Causes Act 1973 (c.18), as amended by paragraph 34 of Schedule 5 to the Act;

(iv) section 2(2)(b) of the Guardianship Act 1973 (c.29) (which applies section 4 of that Act);

(v) section 34(5) of the Children Act 1975 (c.72), (which applies section 2(2)(b) of the Guardianship Act 1973): section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978);

(vi) section 36(2) and (3)(a) of the Children Act 1975 (which applies section 4 of the Guardianship Act 1973 to an order under section 36(2) and (3)(a) as it applies to an order under section 2(2)(b) of the Guardianship Act 1973);

(vii) section 26(1)(b) of the Adoption Act 1976 (c.36) (which applies section 4 of the Guardianship Act 1973 to an order under section 26(1)(b) as it applies to an order under section 2(2)(b) of the Guardianship Act 1973);

(viii) section 10(1) of the Domestic Proceedings and Magistrates' Courts Act 1978, as amended by paragraph 42 of Schedule 5 to the Act.

(f) 1975 c.72.

(g) Section 32B was inserted by section 64 of the Children Act 1975.

(h) 1976 c.36.

(i) Section 12F was added by the Health and Social Services and Social Security Adjudications Act 1983 (c.41) Schedule 1, paragraph 1.

“placement” in relation to a child means a boarding out to which these Regulations apply and “placement” and “placed” shall be construed accordingly;

“supervisory duties” means the duties imposed by regulation 8 (supervisory duties in respect of placements).

- (3) In these Regulations, unless the context otherwise requires—
- (a) any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number;
  - (b) any reference to a numbered Schedule is to the Schedule to these Regulations bearing that number.

### **Scope of the Regulations**

2.—(1) Subject to the provisions of paragraphs (2), (3) and (4), these Regulations shall apply to the placement of a child with a foster parent to live in his household where the placement is made by a care authority under section 21 of the Act or a voluntary organisation under section 61 of the Act.

(2) These Regulations shall not apply to the placement of a child for adoption pursuant to the Adoption Act 1976 with a person who proposes to adopt him.

(3) Where a child is committed by a court to the care of a local authority by an order under section 7(2) of the Family Law Reform Act 1969, section 43 of the Matrimonial Causes Act 1973, section 2(2)(b) of the Guardianship Act 1973, section 34(5), 36(2) and (3)(a) of the Children Act 1975 or section 26(1)(b) of the Adoption Act 1976, the application of these Regulations is subject to any directions given by the court, whether any such direction is given before or after the coming into force of these Regulations.

(4) Nothing in these Regulations shall require the temporary removal of a child from the household in which he is to be placed and in which he is already living before he is placed.

### **Approval of households**

3.—(1) Except as provided in regulation 9 (emergency placements), a child may not be placed with a foster parent unless the household in which the child is to be placed is approved under this regulation by the care authority or the voluntary organisation which place the child.

(2) A local authority or voluntary organisation shall not approve a household under this regulation unless satisfied that a person in the household is suitable to act as a foster parent and shall, as far as practicable, obtain the particulars specified in Part I of Schedule 1 relating to that person and other persons in the household and shall have regard to such matters, and the references required by paragraph (3), in reaching a decision as to the approval of that household.

(3) A local authority or voluntary organisation shall require the person in the household which the authority or organisation propose to approve who is to act as a foster parent to supply the names and addresses of two persons who can provide personal references for him and shall arrange for those persons to be interviewed.

(4) A local authority or voluntary organisation shall give notice in writing to a prospective foster parent as to whether or not the household in which he is living has been approved under this regulation and whether approval is in respect of a particular child or class of children or in respect of any particular kind of placement in such circumstances as may be specified by the authority or organisation.

(5) Where a household is approved under this regulation the notice referred to in paragraph (4) shall include the particulars specified in Part II of Schedule 1 or be accompanied by a document which includes those particulars.

(6) Where a household is approved under this regulation the local authority or voluntary organisation shall from time to time review whether that household continues to be suitable to be approved under this regulation and whether the foster parent in the household continues to be suitable to act as a foster parent and at the conclusion of the review the authority or organisation shall prepare a report and give notice in writing of their decision to the foster parent.

(7) In reviewing their approval in accordance with paragraph (6) a local authority or voluntary organisation shall seek the views of the foster parent in question and take his views into account in reaching their decision.

(8) A local authority or voluntary organisation may by notice in writing given to the foster parent in the household terminate the approval of the household under this regulation from such date as is specified in the notice.

#### **Medical examinations and care of children's health**

4.—(1) A local authority or voluntary organisation shall ensure that arrangements are made for a child placed by them with a foster parent to be provided with health care, including medical and dental attention, and ensure that the name of the child is included on the list of a general medical practitioner who provides general medical services under Part II of the National Health Service Act 1977(a).

(2) Except in the case of a placement to which paragraph (3) applies, a local authority or voluntary organisation shall, before they place a child, make arrangements for—

- (a) the child to be examined by a registered medical practitioner, and
- (b) the practitioner who has carried out the medical 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 the period of 3 months immediately preceding the placement.

(3) Where—

- (a) in the opinion of a local authority or voluntary organisation it is necessary to place a child in an approved household in an emergency; or
- (b) a child is placed as provided in regulation 9 (emergency placements),

and it is not practicable to comply with the requirements of paragraph (2), the local authority or voluntary organisation shall, as soon as practicable, and in any case not more than 14 days after the child has been placed by them, arrange for the child to be examined by a registered medical practitioner and for such a written assessment as is described in paragraph (2)(b) to be obtained unless the child has been so examined and such assessment has been made within the period of 3 months immediately preceding the placement.

(4) A local authority or voluntary organisation shall make arrangements for a child who has been placed by them to be examined by a registered medical practitioner and for such a written assessment as is described in paragraph (2)(b) to be obtained—

- (a) at least once in every period of 6 months before the child's second birthday; and
- (b) at least once in every period of 12 months after the child's second birthday.

#### **Duties of local authorities and voluntary organisations in relation to placements**

5.—(1) A local authority shall satisfy themselves that placement of a child with a foster parent is the most suitable way of performing their general duty under section 18 of the Act (general duty of local authority in relation to children in their care) and that the placement of a child with a particular foster parent is the most suitable having regard to all the circumstances.

(2) A voluntary organisation shall satisfy themselves that the placement of a child with a foster parent is the most suitable way of performing their general duty under section 64A(b) of the Act (general duty of voluntary organisation in relation to children in their care) and that the placement of a child with a particular foster parent is the most suitable placement having regard to all the circumstances.

(3) In making arrangements for a placement a local authority or voluntary organisation shall satisfy themselves that the child's needs arising from his cultural background and racial origin will be met, so far as practicable.

(4) A local authority or organisation shall ensure that a child is placed with a foster parent who is of the same religious persuasion as the child or, if that is not practicable,

(a) 1977 c.49.

(b) Section 64A(b) was added by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 2, paragraph 55.

that the foster parent has given an undertaking to the authority or the organisation that the child will be brought up in that religious persuasion.

(5) Except as provided in regulation 9 (emergency placements) a local authority or voluntary organisation shall before a child is placed with a foster parent, if practicable, and in any case not more than 14 days after the child has been placed with the foster parent, provide the foster parent with such information in writing as the authority or organisation consider necessary to enable the foster parent to care for the child, being information which relates to—

- (a) the state of health of the child, and his need for health care and surveillance;
- (b) the personal history, religious persuasion and cultural background and racial origin of the child;
- (c) the plans of the authority or organisation for the child; and
- (d) any other relevant matters.

#### **Agreements with foster parents**

6. Except as provided in regulation 9 (emergency placements), a local authority or voluntary organisation shall not place a child with a foster parent unless the foster parent has before or at the time of the placement signed an undertaking as to the matters set out in Part I of Schedule 2 and entered into an agreement in writing with the authority or organisation which shall include the provisions set out in Part II of that Schedule.

#### **Notices relating to placements**

7.—(1) Except in the circumstances mentioned in paragraph (3), where a local authority or voluntary organisation have placed a child they shall give notice in writing of the placement to the child's parent or guardian or custodian (as the case may be) which shall contain the particulars specified in paragraph (2).

(2) The particulars to be contained in a notice under paragraph (1) are as follows:—

- (a) that the child has been placed with a foster parent;
- (b) the name and address of the foster parent;
- (c) arrangements for access to the child having regard to the Code of Practice made under section 12G(a) of the Act;
- (d) any other particulars relating to the care and welfare of the child which it appears to the local authority or voluntary organisation ought to be supplied, except that the authority or organisation may omit the particulars specified in subparagraph (b) above if they determine that including those particulars in the notice would not be in accordance with their general duty in respect of the child under section 18 or section 64A of the Act, as the case may be.

(3) A local authority or voluntary organisation shall not be under a duty to give notice under paragraph (1) to any person whose whereabouts are unknown to the authority or organisation or cannot readily be obtained.

(4) Where a child is placed by a local authority or voluntary organisation, the authority or organisation shall give to the District Health Authority for the district in which the child has been placed and to the appropriate officer notice in writing of the placement and the name and address of the foster parent.

(5) In paragraph (4) "appropriate officer" means such officer as may be appointed for the purposes of that paragraph by the local education authority for the area in which the child has been placed.

(6) Where a placement has been terminated by a local authority or voluntary organisation or has ended for any other reason, the authority or organisation shall give notice of the termination to the persons and authorities to whom notices of the placement were given in accordance with paragraphs (1) and (4).

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(a) Section 12G was added by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 1, paragraph 1.

### Supervisory duties in respect of placements

8.—(1) A local authority or voluntary organisation shall satisfy themselves that the welfare of each child who has been placed by them continues to be appropriately provided for by his placement with a particular foster parent and for that purpose the authority or organisation shall—

- (a) make arrangements for the child to be visited and seen in the foster home in which he is placed by a person authorised by the authority or organisation from time to time and when reasonably requested by the child or the foster parent and as circumstances may require, and
  - (i) in any case within one week from the beginning of the placement,
  - (ii) except in relation to placements to which paragraph (4) applies, at intervals of not more than 6 weeks during the first year of the placement, and
  - (iii) in the second and succeeding years, at intervals of not more than 3 months;
- (b) review the child's welfare and progress, including his health, and his physical, emotional, educational and social development, within the period of 3 months from the beginning of the placement and thereafter at intervals of not more than 6 months;
- (c) give such advice and assistance to the foster parent with whom the child is placed as appears to the local authority or organisation to be necessary.

(2) In carrying out a review in accordance with paragraph (1)(b) a local authority or voluntary organisation shall, so far as practicable, ascertain and give due consideration to the child's wishes and feelings, having regard to his age and understanding, and seek and take into account the views of—

- (a) the child's parent or guardian, or
- (b) where a custodianship order relating to the child is in force, the custodian and, where the custodian and a parent of the child have legal custody jointly, that parent, and
- (c) the foster parent with whom the child is placed.

(3) In carrying out a review in accordance with paragraph (1)(b) a local authority or voluntary organisation shall reconsider whether—

- (a) there is a continuing need for the child to be in the care of the local authority or voluntary organisation, as the case may be, and if so whether the placement of the child with a foster parent is the most suitable way of performing their general duty under section 18 or section 64A of the Act;
- (b) the placement with the foster parent continues to be the most suitable placement having regard to all the circumstances;
- (c) the child's needs arising from his cultural background, racial origin and religious persuasion are being met.

(4) In the case of a placement under regulation 9 (emergency placements) the local authority shall make arrangements for the child to be visited not less than once each week during the placement.

(5) For the purposes of carrying out visits in accordance with paragraph (1)(a) or (4) the person authorised to visit and see the child in the foster home shall, if he considers it appropriate, make arrangements to see the child alone.

(6) On each occasion on which a child is visited and seen in pursuance of a provision of these Regulations by any person authorised by the care authority, the voluntary organisation in whose care the child is or the area authority who are performing duties under this regulation in respect of the child, the authority or organisation, as the case may be, shall cause a written report to be prepared by that person.

(7) On each occasion on which a review of the case of a child is carried out pursuant to paragraph (1)(b) the authority or organisation shall make a written report thereon.

**Emergency placements**

9.—(1) Where it is necessary to make arrangements for the placement of a child in an emergency, a local authority may make arrangements for the placement of a child with a person in a household which has not been approved under regulation 3 for a period not exceeding 6 weeks if, after interviewing that person, inspecting the accommodation and obtaining information about other persons living in his household, the authority are satisfied that—

- (a) the person with whom the child is placed is a relative or friend of the child;
  - (b) he has signed an undertaking to carry out the duties specified in paragraph (2); and
  - (c) it is necessary for the child's welfare that the arrangements should be made.
- (2) The duties referred to in paragraph (1)(b) are—
- (a) to care for the child as if he were a member of that person's family, and to promote his welfare, having regard to any particular arrangements agreed with the local authority;
  - (b) to permit any person authorised by the Secretary of State, the local authority by whom the child was placed or, where appropriate, the area authority, to visit the child in the foster home;
  - (c) to allow the child to be removed from the foster home by the local authority by whom the child was placed or, where appropriate, the area authority;
  - (d) to ensure that any information which he may acquire relating to the child or his family or any other person given to him in confidence in connection with the placement is kept confidential and not to disclose such information to any person other than the local authority;
  - (e) to allow access to the child in accordance with arrangements made by the local authority.

**Restriction on placements outside England and Wales**

10.—(1) A care authority shall not place a child outside the British Islands<sup>(a)</sup> unless the authority are satisfied that the exceptional circumstances of his case make such placement desirable.

(2) A voluntary organisation shall not place a child outside the British Islands.

(3) If a care authority or a voluntary organisation make arrangements to place a child outside England and Wales the authority or organisation shall take steps to ensure that, so far as 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 England or Wales.

**Termination of placements**

11.—(1) A care authority or voluntary organisation shall not allow a child placed by them to remain placed with a particular foster parent if it appears that the placement is no longer in accordance with the general duty of the authority in respect of the child under section 18 of the Act or that of the organisation under section 64A of the Act.

(2) Where in the case of a child who has been placed in the area of an area authority by a care authority or a voluntary organisation 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.

(3) Where a child placed by a care authority is removed by the area authority under paragraph (2) the area authority shall forthwith notify the care authority of the removal.

(4) Where a child placed by a voluntary organisation is removed by the area authority under paragraph (2) the authority shall forthwith notify the organisation of the removal.

<sup>(a)</sup> "British Islands" are defined in the Interpretation Act 1978 (c.30) as meaning the United Kingdom, the Channel Islands and the Isle of Man.

**Registers to be kept by local authorities**

12.—(1) A local authority shall, in respect of every child placed in their area, whether by them or by another local authority or by a voluntary organisation, enter into a register to be kept for the purpose, the particulars specified in paragraph (2) and such of the particulars specified in paragraph (3) as may be appropriate.

(2) The particulars to be entered in the register in accordance with paragraph (1) are—

- (a) the name, sex, and date of birth of the child;
- (b) the name and address of the child's parent or guardian and custodian;
- (c) the name and address of the foster parent;
- (d) the name of the local authority or voluntary organisation in whose care the child is;
- (e) the name of the local authority or voluntary organisation by whom the child is placed;
- (f) the statutory provision by virtue of which the child is in the care of a local authority;
- (g) the date on which each placement of the child began and terminated and the reason for each termination.

(3) The additional particulars to be entered in the register, where appropriate, in accordance with paragraph (1) are in the case of a child in respect of whom arrangements have been made under regulation 17 (arrangements for supervisory duties to be carried out by area authorities) a note of that fact and the name of the local authority with whom the arrangements were made.

(4) Entries in registers kept in accordance with this regulation shall be retained for at least 5 years beginning with the date on which the child to which the entry relates attains the age of 18 years or, if the child has died before attaining that age, the period of 5 years beginning with the date of his death.

(5) Any register kept in accordance with this regulation shall be open to inspection at all reasonable times by any person duly authorised in that behalf by the Secretary of State.

(6) A local authority shall provide such access to entries in the register relating to a particular child and disclose such information about him in their possession as may be required—

- (a) by the child's guardian ad litem, and
- (b) subject to the provisions of sections 29(7) and 32(3) of the Local Government Act 1974<sup>(a)</sup> (investigations and disclosure), by a Local Commissioner appointed under section 23 of that Act (Commissioners for Local Administration) for the purposes of any investigation conducted in accordance with Part III of that Act.

(7) A local authority shall secure the safe keeping of registers kept in accordance with this regulation and shall take all necessary steps to ensure that information contained therein is treated as confidential.

**Case records relating to placements**

13.—(1) A local authority shall compile and keep up to date a case record in respect of—

- (a) every child placed by them; and
- (b) every child placed by another authority in their area in respect of whom they perform supervisory duties.

(2) A voluntary organisation shall compile and keep up to date a case record in respect of every child placed by them.

(3) Every case record compiled in accordance with paragraph (1) or (2) shall include the documents specified in paragraph (4) and the information specified in paragraph (5).

<sup>(a)</sup> 1974 c.7.



- (4) The documents referred to in paragraph (3) are as follows:—
- (a) copies of reports made in pursuance of regulation 8(6) and (7);
  - (b) copies of reports of each review carried out in respect of the child under section 27(4) of the Children and Young Persons Act 1969(a);
  - (c) copies of undertakings given by and agreements made with every foster parent with whom the child is placed in pursuance of regulation 6;
  - (d) copies of any undertakings in respect of the duties specified in regulation 9(2);
  - (e) copies of the written information in respect of the child provided to foster parents in pursuance of regulation 5(5) and notices in respect of the child given in pursuance of regulation 7;
  - (f) copies of any notice given under section 12B of the Act (termination of access) and any access order made by a court under section 12C of the Act (access orders)(b);
  - (g) copies of any agreements setting out the terms of arrangements made by the care authority for the performance of supervisory duties in respect of the child by an area authority.

(5) The information to be included in case records is all the information relating to the child's history and background and the child's health, and his physical, emotional, educational and social development which in the opinion of the local authority or voluntary organisation, as the case may be, is relevant to the child's welfare during periods in which the child is placed with a foster parent.

#### **Records relating to foster parents**

14.—(1) A local authority and a voluntary organisation shall compile and keep up to date a record in respect of every foster parent in a household approved by them under regulation 3 which shall include the documents specified in paragraph (2) and the information specified in paragraph (3).

- (2) The documents referred to in paragraph (1) are—
- (a) copies of notices given by the local authority or voluntary organisation in pursuance of regulation 3(4);
  - (b) copies of reports of each review of the approval of the household of the foster parent carried out in pursuance of regulation 3(6); and
  - (c) copies of notices given in pursuance of paragraph (6) or (8) of regulation 3.
- (3) The information referred to in paragraph (1) is as follows:—
- (a) a record of each placement with the foster parent including the name, age and sex of each child placed with the foster parent, the dates on which each placement commenced and terminated and the circumstances in which the placement terminated;
  - (b) information obtained by the authority or voluntary organisation, as the case may be, in relation to the approval of the household of the foster parent and the review or termination of such approval.

(4) A local authority and a voluntary organisation shall compile a record in respect of each proposed foster parent to whom notice was given under regulation 3(4) that the household of the proposed foster parent had not been approved under regulation 3 which record shall include a copy of that notice and information obtained by the authority or organisation in relation to the household prior to the giving of that notice.

#### **Retention of and access to records**

15.—(1) Any case record compiled in accordance with regulation 13 or a complete recording thereof, shall be retained for 75 years beginning with the date of birth of the child to whom it relates or, if the child has died before attaining the age of 18, the period of 15 years beginning with the date of his death.

(2) Any record compiled in accordance with regulation 14 or a complete recording thereof shall be retained for at least 10 years from the date on which approval of the household of the person to whom the record relates was terminated.

(a) 1969 c.54.

(b) Sections 12B and 12C were added by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 1, paragraph 1.

(3) A local authority or voluntary organisation shall secure the safe keeping of records compiled in accordance with regulation 13 or 14 and shall take all necessary steps to ensure that information contained therein is treated as confidential.

(4) Records compiled in accordance with regulation 13 or 14 or, as the case may be, complete recordings thereof, shall be open to inspection at all reasonable times by any person duly authorised in that behalf by the Secretary of State.

(5) A local authority or voluntary organisation shall provide such access to records compiled in accordance with regulation 13 or 14 or, as the case may be, complete recordings thereof, and disclose such information about a particular child or foster parent as may be required—

- (a) by the child's guardian ad litem, and
- (b) subject to the provisions of sections 29(7) and 32(3) of the Local Government Act 1974 (investigations and disclosure), by a Local Commissioner appointed under section 23 of that Act, for the purposes of any investigation conducted in accordance with Part III of that Act.

(6) A local authority or voluntary organisation may make and preserve a complete recording of any record compiled in accordance with regulation 13 or 14 and may destroy any record of which they have made a recording which reproduces the total contents of such record.

#### **Information to be given by local authorities and voluntary organisations**

##### **16.—(1) Where—**

- (a) a local authority propose to approve a household under regulation 3 in the area of another local authority or, except in the case of an emergency placement in an approved household or as provided in regulation 9 (emergency placements), propose to place a child with a foster parent in the area of another local authority; or
  - (b) a voluntary organisation propose to approve a household under regulation 3 or, except in the case of an emergency placement in an approved household, propose to place a child with a foster parent in the area of a local authority,
- the local authority or voluntary organisation, as the case may be, shall give notice in writing to the local authority for that area of their proposal and seek their views.

##### **(2) Where—**

- (a) a local authority have approved a household in the area of another local authority under section 3 or have placed a child in the area of another local authority;
  - (b) a voluntary organisation have approved a household in the area of a local authority under section 3 or have placed a child in the area of an authority;
- the authority or organisation shall—
- (i) give notice in writing to the authority for that area of the approval of the household or the placement of the child, as the case may be, and supply such information as that authority may require in order to enter particulars thereof in the register kept by that authority as area authority in accordance with regulation 12,
  - (ii) if such a placement is terminated, give notice in writing to the authority for that area of that fact and the reasons for termination of the placement,
  - (iii) if they terminate their approval of a household approved under regulation 3, give notice in writing to the authority for that area of the date on which approval was terminated and the reasons for the termination.

(3) Where a local authority (in this paragraph referred to as “the notified authority”) have received notice from another local authority or a voluntary organisation of any of the matters referred to in paragraph (1) or (2), except a notice given under paragraph (2)(iii), the notified authority shall give notice in writing to the authority or organisation by whom they were notified of any of the following matters—

- (a) a proposal by the notified authority to approve the same household under regulation 3 or the placement of, or a proposal to place, a child with the same foster parent;

- (b) that the notified authority had already approved the same household under regulation 3 at the time the authority received such notice or had already placed a child with the foster parent in that household at that time;
- (c) the termination by the notified authority of a placement of a child with the same foster parent, giving the reasons for that termination;
- (d) the termination by the notified authority of their approval of the same household under regulation 3 giving the date of the termination and the reasons for the termination.

(4) Where a local authority have given notice in accordance with paragraph (1)(a) of a proposal to approve a household under regulation 3 or a voluntary organisation have given notice in accordance with paragraph (1)(b) of such a proposal and subsequently the authority or organisation do not approve that household, they shall give notice in writing thereof to the local authority to whom notice was given under paragraph (1)(a) or (b).

#### **Arrangements between care authorities and area authorities**

17. Where arrangements are made by a care authority in respect of a child placed by the care authority in the area of another authority for the area authority to carry out supervisory duties on behalf of the care authority(a)—

- (a) the care authority shall supply the area authority with all such information as is necessary to enable the area authority to carry out supervisory duties on behalf of the care authority;
- (b) the area authority shall keep the care authority informed of the progress of the child and, in particular, shall furnish reports to the care authority following each visit to the household in which the child is placed and following each review of the case of the child carried out by the area authority in accordance with regulation 8(1)(b) or under section 27(4) of the Children and Young Persons Act 1969(b);
- (c) the care authority and the area authority shall consult with each other from time to time as necessary and as soon as practicable after each such review of the case of the child with regard to what action is required in relation to the child.

#### **Duties of local authorities in regard to children placed by voluntary organisations**

18. Except where a local authority are satisfied that a voluntary organisation have made suitable arrangements for the performance of their duties under these Regulations in respect of a child placed by the organisation in the area of the authority they shall make arrangements to visit the child in the home in which he is placed and if in the opinion of the authority the welfare of the child so requires the authority shall carry out supervisory duties in respect of the child or exercise their power under regulation 11(2) to remove the child from the home.

#### **Transitional provisions**

19.—(1) Where any child is boarded out with a foster parent in accordance with the Boarding-out of Children Regulations 1955(c) (in this regulation referred to as "the 1955 Regulations") on 31st May 1989 or at any time during the period of one month ending with that date—

- (a) the household in which the foster parent with whom the child is boarded out is living shall be deemed to be approved under regulation 3 by the local authority or voluntary organisation by whom the child was boarded out until the date of the notice given to the foster parent under regulation 3(6) following the review referred to in paragraph (1)(b) below and the authority or organisation shall be deemed to have complied with paragraphs (1) to (5) of regulation 3;

(a) Section 101 of the Local Government Act 1972 (c.70) enables a local authority to arrange for the discharge of any of their functions by any other authority.

(b) 1969 c.54.

(c) S.I. 1955/1377.

- (b) the authority or organisation shall review their approval of that household in accordance with regulation 3(6) within one year from the coming into force of these Regulations and if they decide that that household continues to be suitable to be approved under regulation 3, they shall include in the notice given under regulation 3(6) following that review the particulars specified in Part II of Schedule 1;
  - (c) regulation 14 (records relating to foster parents) shall not apply in relation to a foster parent in a household which is deemed to be approved under regulation 3 until the date of the notice given to the foster parent under regulation 3(6) following the review referred to in subparagraph (1)(b) above.
- (2) Where a child is boarded out with a foster parent in accordance with the 1955 Regulations immediately before these Regulations come into force these Regulations shall apply to the placement with that foster parent as if he had been placed under these Regulations subject to the following modifications:—
- (a) the duty of a local authority or voluntary organisation to provide the foster parent with the information specified in regulation 5(5) and to give notice in accordance with paragraphs (1) and (4) of regulation 7 to the persons specified therein shall be deemed to have been complied with if such information is provided and notice is given within one year from the coming into force of these Regulations;
  - (b) if the placement is terminated by the authority or organisation before notice has been given under regulation 7(1), notice under regulation 7(6) shall be given to the persons to whom notice would have been required to have been given under paragraph (1) and (4) of regulation 7 if the placement had been made on or after the coming into force of these Regulations;
  - (c) a case record compiled in respect of a child under regulation 10 of the 1955 Regulations shall be deemed to be a case record kept under regulation 13(5) and regulation 13 shall apply to such case record except that any particulars required to be entered in accordance with regulation 13 which were not required to be entered in a case record compiled under the 1955 Regulations may be entered at any time within one year from the coming into force of these Regulations;
  - (d) any notice required to be given in accordance with regulation 16 in respect of a child boarded out with a foster parent under the 1955 Regulations immediately before the coming into force of these Regulations may be given within one year from the coming into force of these Regulations;
  - (e) the duty of a local authority or voluntary organisation under regulation 6 (agreement with foster parents) shall be deemed to have been complied with in the case of a placement with a foster parent with whom a child is boarded out under the 1955 Regulations immediately before the coming into force of these Regulations if an agreement and an undertaking are entered into by the foster parent in accordance with regulation 6(1) within one year from the coming into force of these Regulations;
  - (f) an undertaking given by a foster parent in accordance with regulation 20 of the 1955 Regulations in respect of a child who was boarded out immediately before the coming into force of these Regulations shall continue to have effect as if the undertaking had been given under regulation 6(1) of these Regulations until the date on which such an agreement and undertaking made in accordance with regulation 6 referred to in paragraph (2)(e) have effect.
- (3) A register kept by a local authority under the 1955 Regulations shall be deemed to be a register kept under regulation 12 and these Regulations shall apply to such a register except that any particulars specified in paragraph (2) and (3) of regulation 12 relating to a child who is boarded out immediately before the coming into force of these Regulations which were not required to be entered in the register kept under the 1955 Regulations may be entered within one year from the coming into force of these Regulations.

(4) Where a child is boarded out by a local authority in the area of another local authority under the 1955 Regulations immediately before the coming into force of these Regulations and there are in force immediately before that date arrangements between those authorities made under regulation 13 of the 1955 Regulations in respect of that child, those arrangements shall, so far as they are consistent with these Regulations, continue in force and have effect as if they were arrangements made under regulation 17 of these Regulations.

(5) Where before the coming into force of these Regulations any thing has been done under the 1955 Regulations it shall be deemed to have been done, so far as it could have been done, under the corresponding provisions of these Regulations.

#### **Revocation**

20. The Boarding-out of Children Regulations 1955(a) and the Boarding-out of Children (Amendment) Regulations 1982(b) are hereby revoked.

Signed by authority of the Secretary of State for Health

12th December 1988

*D. Mellor*  
Minister of State,  
Department of Health

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(a) S.I. 1955/1377.

(b) S.I. 1982/447.

## SCHEDULE 1

Regulation 3

## APPROVAL OF HOUSEHOLDS

## PART I

## PARTICULARS RELATING TO PROSPECTIVE FOSTER PARENTS AND OTHER PERSONS IN HOUSEHOLDS

1. The age of the prospective foster parent.
2. The health of the prospective foster parent.
3. The personality of the prospective foster parent.
4. The marital status of the prospective foster parent, and particulars of any previous marriage.
5. Particulars of adults other than the prospective foster parent who are living in the household.
6. Particulars of the accommodation at the prospective foster parent's dwelling.
7. Particulars of children of the family of the prospective foster parent, whether living in the household or not.
8. Particulars of any other children living in the household.
9. The religious persuasion of the prospective foster parent and the degree of his religious observance and capacity to care for a child of a different religious persuasion.
10. The cultural background and racial origin of the prospective foster parent and his capacity to care for a child from a particular cultural background or of a particular racial origin.
11. The past and present employment or occupation of the prospective foster parent.
12. Particulars of the leisure activities and interests of the prospective foster parent.
13. Particulars of the standard of living of the prospective foster parent.
14. The previous experience of the prospective foster parent of caring for his own and other children and an assessment of his capacity in that respect.
15. Any criminal convictions of the prospective foster parent and other adult members of the household.
16. Particulars of the outcome of any previous request by the prospective foster parent to foster or adopt children or of any application for registration under section 1 of the Nurseries and Child-Minders Regulation Act 1948(a).
17. Whether the household has been approved by any local authority or voluntary organisation under regulation 3.

## PART II

## PARTICULARS TO BE INCLUDED IN NOTICES GIVEN UNDER REGULATION 3(4)

1. The procedure of the local authority or voluntary organisation for the review of approval of households.
2. The procedure of the authority or organisation for dealing with complaints by foster parents.
3. The arrangements of the authority or organisation for meeting any legal liabilities of a foster parent arising by reason of the placement.
4. The arrangements of the authority or voluntary organisation for the financial support of children placed with a foster parent.

## Regulation 6

## SCHEDULE 2

## UNDERTAKINGS AND AGREEMENTS BY FOSTER PARENTS

## PART I

## MATTERS TO BE INCLUDED IN UNDERTAKINGS BY FOSTER PARENTS

1. 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 any particular arrangements agreed with the local authority or voluntary organisation.
2. To notify the local authority or voluntary organisation immediately of any serious illness of the child, or other serious occurrence affecting the child.
3. To permit any person authorised by the Secretary of State, or by the local authority or voluntary organisation or the area authority to visit the foster home and see the child.
4. To allow the child to be removed from the foster home by the care authority, or area authority or voluntary organisation.
5. To inform the care authority or voluntary organisation of any intended change of address and particulars of persons leaving or joining the foster parent's household and any other change in his personal circumstances.
6. To ensure that any information relating to any child or his family or any other person given to him in confidence in connection with a placement is kept confidential and not to disclose such information to any person other than the local authority or voluntary organisation.

## PART II

## PROVISIONS TO BE INCLUDED IN AGREEMENTS

1. Any particular arrangements for the child's care, development and upbringing including arrangements for the care of his health and for his education and employment.
2. Arrangements for access to the child by the child's parents and other persons.
3. Arrangements for visiting and review of the case of the child by the local authority or the voluntary organisation, stating how often those visits and reviews will be carried out including arrangements for reviews under regulation 8(1)(b) and section 27(4) of the Children and Young Persons Act 1969.
4. Arrangements for the financial support of the child during the period of the placement.

**EXPLANATORY NOTE**

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

These Regulations replace the Boarding-out of Children Regulations 1955, which are revoked by regulation 20.

The Regulations apply to the boarding out of children (referred to in the Regulations as "placement") by local authorities and voluntary organisations. The Regulations require households in which children are placed to be approved by local authorities or voluntary organisations (regulation 3); make provision for children to be medically examined before they are placed and for their health care during placement (regulation 4); prescribe the duties of authorities and organisations in respect of placements (regulation 5); provide for undertakings and written agreements by foster parents (regulation 6); provide for notices of placements to be given to parents and other persons and authorities (regulation 7); require authorities and organisations to arrange for visits and to carry out reviews of placements (regulation 8); make provision for emergency placements by authorities (regulation 9); restrict placements outside England and Wales (regulation 10); require registers to be kept by authorities and confidential records relating to placements and foster parents to be kept by authorities and organisations (regulations 12 to 15); specify information to be given to local authorities by other authorities and by organisations (regulation 16); provide for cases where the supervisory duties of one authority are carried out by another (regulation 17); impose duties on local authorities in regard to children placed by organisations (regulation 18); and contain transitional provisions (regulation 19).