
STATUTORY INSTRUMENTS

2001 No. 3967

The Children's Homes Regulations 2001

PART I
GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Children's Homes Regulations 2001 and shall come into force on 1st April 2002.

(2) These Regulations extend to England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Care Standards Act 2000;

“the 1989 Act” means the Children Act 1989(1);

“child protection enquiry” has the meaning given to it by regulation 16(3);

“children's guide” means the guide produced in accordance with regulation 4(3);

“general practitioner” means a registered medical practitioner who—

(a) provides general medical services under Part II of the National Health Service Act 1977(2);

(b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(3); or

(c) provides services which correspond to services provided under Part II of the National Health Service Act 1977, otherwise than in pursuance of that Act;

“organisation”, other than in regulation 17, means a body corporate or any unincorporated association other than a partnership;

“placement plan” means the written plan prepared in accordance with regulation 12(1);

“placing authority” in relation to a child accommodated in a children's home means—

(a) in the case of a child who is looked after by a local authority, that local authority;

(b) in the case of a child who is not looked after by a local authority—

(i) if he is being provided with accommodation by a voluntary organisation(4), that voluntary organisation;

(1) 1989 c. 41.

(2) 1977 c. 49.

(3) 1997 c. 46.

(4) Section 59 of the 1989 Act governs the provision of accommodation for children by voluntary organisations.

- (ii) if he is accommodated in a qualifying school under arrangements made by a local education authority or a local authority, that local education authority or local authority as the case may be;
- (iii) in any other case, the child's parent⁽⁵⁾;

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

“registered dental practitioner” means a person registered in the dentists register under the Dentists Act 1984⁽⁶⁾;

“registered manager”, in relation to a children's home, means a person who is registered under Part II of the Act as the manager of that home;

“registered person”, in relation to a children's home, means any person who is the registered provider or the registered manager of the home;

“registered provider”, in relation to a children's home, means a person who is registered under Part II of the Act as the person carrying on that home⁽⁷⁾;

“responsible individual” shall be construed in accordance with regulation 6(2)(c); and

“statement of purpose” means the written statement compiled in accordance with regulation 4(1).

(2) In these Regulations, a reference—

- (a) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph, is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph, is to the sub-paragraph in that paragraph bearing that letter or number.

(3) In these Regulations, references to employing a person include employing a person whether or not for payment, and whether under a contract of service or a contract for services, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

Excepted establishments

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

- (a) any institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992⁽⁸⁾;
- (b) subject to paragraph (2), any establishment providing accommodation for children for less than 28 days in any twelve month period in relation to any one child, for the purposes of—
 - (i) a holiday; or
 - (ii) recreational, sporting, cultural or educational activities;

(5) By section 121(1) of the Care Standards Act, “parent” in relation to a child, includes any person who is not a parent of his but who has parental responsibility for him.

(6) 1984 c. 24.

(7) See section 121(6) to (8) of the Care Standards Act 2000 for provision about the persons who are taken to carry on and manage a community home which is provided by a voluntary organisation.

(8) 1992 c. 13.

- (c) subject to paragraph (2), any premises at which a person provides day care within the meaning of Part XA of the 1989 Act for less than 28 days in any twelve month period in relation to any one child;
- (d) subject to paragraph (2), any establishment providing accommodation for children aged 16 and over—
 - (i) to enable them to undergo training or apprenticeship;
 - (ii) for the purposes of a holiday; or
 - (iii) for recreational, sporting, cultural or educational purposes;
- (e) any approved bail hostel or approved probation hostel⁽⁹⁾; and
- (f) any institution provided for young offenders under or by virtue of section 43(1) of the Prison Act 1952⁽¹⁰⁾.

(2) The exceptions in paragraphs (1)(b), (c) and (d) do not apply to any establishment or premises in which the children who are accommodated are wholly or mainly of a description falling within section 3(2) of the Act.

(3) For the purposes of calculating the period of 28 days mentioned in paragraph (1)(c), no account is to be taken of any period of 24 hours during which at least 9 hours are spent by a child in the care of his parent or relative⁽¹¹⁾, and day care is not provided for him during that time.

Statement of purpose and children’s guide

4.—(1) The registered person shall compile in relation to the children’s home a written statement (in these Regulations referred to as “the statement of purpose”) which shall consist of a statement as to the matters listed in Schedule 1.

(2) The registered person shall provide a copy of the statement of purpose to the Commission⁽¹²⁾ and shall make a copy of it available upon request for inspection by—

- (a) any person who works at the children’s home;
- (b) any child accommodated in the children’s home;
- (c) the parent of any child accommodated in the children’s home;
- (d) the placing authority of any child accommodated in the home; and
- (e) in the case of a qualifying school, the Secretary of State, and Her Majesty’s Inspector of Schools in England,

and in this paragraph references to a child who is accommodated in the children’s home include a child in respect of whom accommodation in the children’s home is being considered.

(3) The registered person shall produce a guide to the children’s home (in these Regulations referred to as “the children’s guide”) which shall include—

- (a) a summary of the home’s statement of purpose;
- (b) a summary of the complaints procedure established under regulation 24; and
- (c) the address and telephone number of the Commission.

⁽⁹⁾ See section 9 (2) of the Criminal Justice and Court Services Act 2000 (c. 43).

⁽¹⁰⁾ c. 52. Amended by section 170(1) of and paragraphs 11 and 12 of Schedule 15, and Schedule 16, to the Criminal Justice Act 1988 (c. 33); sections 5(2), 18(3) and 168(3) of and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33); section 119 of, and paragraph 6 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37); and section 165(1) of, and paragraph 5 of Schedule 9 to, the Powers of the Criminal Courts (Sentencing) Act 2000 (c. 6). Subsection (1)(a) of section 43 is to be repealed by sections 59 and 75 of, and Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c. 43) on a date to be appointed.

⁽¹¹⁾ By section 121(1) of the Care Standards Act 2000, “relative” has the same meaning as in the 1989 Act.

⁽¹²⁾ By virtue of section 6(1) of the Care Standards Act 2000, the Commission means the National Care Standards Commission established under that Act.

(4) The children’s guide shall be produced in a form appropriate to the age, understanding and communication needs of the children to be accommodated in the home.

(5) The registered person shall supply a copy of the children’s guide to the Commission and, on admission, to each child accommodated in the home.

(6) Subject to paragraph (7), the registered person shall ensure that the children’s home is at all times conducted in a manner which is consistent with its statement of purpose.

(7) Nothing in paragraph (6) or in regulation 31 shall require or authorise the registered person to contravene or not comply with—

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered person under Part II of the Act.

Review of the statement of purpose and children’s guide

5. The registered person shall—

- (a) keep under review and, where appropriate, revise the statement of purpose and the children’s guide;
- (b) notify the Commission of any such revision within 28 days; and
- (c) if the children’s guide is revised, supply a copy to each child accommodated in the home.

PART II

REGISTERED PERSONS

Fitness of registered provider

6.—(1) A person shall not carry on a children’s home unless he is fit to do so.

(2) A person is not fit to carry on a children’s home unless the person—

- (a) is an individual who carries on the children’s home—
 - (i) otherwise than in partnership with others, and he satisfies the requirements set out in paragraph (3);
 - (ii) in partnership with others, and he and each of his partners satisfies the requirements set out in paragraph (3);
- (b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);
- (c) is an organisation and—
 - (i) the organisation has given notice to the Commission of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the children’s home; and
 - (ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that—

- (a) he is of integrity and good character;
- (b) he is physically and mentally fit to carry on the children’s home; and
- (c) full and satisfactory information is available in relation to him—

- (i) except where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 2;
- (ii) where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 7 of Schedule 2.

(4) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997⁽¹³⁾ has not been brought into force.

- (5) A person shall not carry on a children's home if—
- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or
 - (b) he has made a composition or arrangement with his creditors and has not been discharged in respect of it.

Appointment of manager

7.—(1) The registered provider shall appoint an individual to manage the children's home if—

- (a) there is no registered manager in respect of the children's home; and
- (b) the registered provider—
 - (i) is an organisation or a partnership;
 - (ii) is not a fit person to manage a children's home; or
 - (iii) is not, or does not intend to be, in full-time day to day charge of the children's home.

(2) Where the registered provider appoints a person to manage the children's home, he shall forthwith give notice to the Commission of—

- (a) the name of the person so appointed; and
- (b) the date on which the appointment is to take effect.

Fitness of manager

8.—(1) A person shall not manage a children's home unless he is fit to do so.

(2) A person is not fit to manage a children's home unless—

- (a) he is of integrity and good character;
- (b) having regard to the size of the children's home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there—
 - (i) he has the qualifications, skills and experience necessary for managing the children's home; and
 - (ii) he is physically and mentally fit to manage the children's home; and
- (c) full and satisfactory information is available in relation to him—
 - (i) except where paragraph (3) applies, in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 2;
 - (ii) where paragraph (3) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 7 of Schedule 2.

⁽¹³⁾ 1997 c. 50. Sections 113 and 115, as amended, have not yet been brought into force. See further, the footnotes to paragraph 2 of Schedule 2.

(3) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997⁽¹⁴⁾ has not been brought into force.

Registered person—general requirements

9.—(1) The registered provider and the registered manager shall, having regard to the size of the children’s home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there, carry on or manage the home (as the case may be) with sufficient care, competence and skill.

(2) If the registered provider is—

- (a) an individual, he shall undertake;
- (b) an organisation, it shall ensure that the responsible individual undertakes;
- (c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the children’s home.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the children’s home.

Notification of offences

10. Where the registered person or the responsible individual is convicted of any criminal offence, whether in England and Wales or elsewhere, he shall forthwith give notice in writing to the Commission of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted; and
- (c) the penalty imposed on him in respect of the offence.

PART III

CONDUCT OF CHILDREN'S HOMES

CHAPTER 1

Welfare of Children

Promotion of welfare

11.—(1) The registered person shall ensure that the children’s home is conducted so as to—

- (a) promote and make proper provision for the welfare of children accommodated there; and
- (b) make proper provision for the care, education, supervision and, where appropriate, treatment, of children accommodated there.

(2) The registered person shall make suitable arrangements to ensure that the home is conducted—

- (a) in a manner which respects the privacy and dignity of children accommodated there; and

⁽¹⁴⁾ See the footnote to regulation 6(4).

- (b) with due regard to the sex, religious persuasion, racial origin, and cultural and linguistic background and any disability of children accommodated there.

Child's placement plan

12.—(1) The registered person shall, before providing accommodation for a child in a children's home, or if that is not reasonably practicable, as soon as possible thereafter, prepare in consultation with the child's placing authority a written plan (in these Regulations referred to as the "placement plan") for the child setting out, in particular—

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

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

(3) In preparing or reviewing the placement plan the registered person shall, so far as practicable having regard to the child's age and understanding, seek and take account of his views.

(4) The registered person shall so far as is reasonably practicable—

- (a) ensure that the placement plan is consistent with any plan for the care of the child prepared by his placing authority; and
- (b) comply with requests made by the child's placing authority to—
 - (i) provide it with information relating to the child; and
 - (ii) provide a suitable representative to attend any meetings it may hold concerning the child.

Food provided for children

13.—(1) The registered person shall ensure that children accommodated in a children's home are provided with—

- (a) food which—
 - (i) is served in adequate quantities and at appropriate intervals;
 - (ii) is properly prepared, wholesome and nutritious;
 - (iii) is suitable for their needs and meets their reasonable preferences; and
 - (iv) is sufficiently varied; and
- (b) access to fresh drinking water at all times.

(2) The registered person shall ensure that any special dietary need of a child accommodated in the home, which is due to his health, religious persuasion, racial origin or cultural background, is met.

Provision of clothing, pocket money and personal necessities

14.—(1) The registered person shall ensure that the needs and reasonable preferences of each child accommodated in the home for clothing including footwear, and personal necessities are met.

(2) The registered person shall provide children accommodated in the home with such sums of money in respect of their occasional personal expenses as is appropriate to their age and understanding.

Contact and access to communications

15.—(1) The registered person shall—

- (a) subject to paragraphs (6) and (8), promote the contact of each child with his parents, relatives and friends in accordance with the arrangements set out in his placement plan; and
- (b) subject to paragraph (3), ensure that suitable facilities are provided within the children's home for any child accommodated there to meet privately at any reasonable time with his parents, relatives and friends, and the persons listed in paragraph (2).

(2) The persons are—

- (a) any solicitor or other adviser or advocate acting for the child;
- (b) any officer of the Children and Family Court Advisory and Support Service⁽¹⁵⁾ appointed for him;
- (c) any social worker for the time being assigned to the child by his placing authority;
- (d) any person appointed in respect of any requirement of the procedure specified in the Representations Procedure (Children) Regulations 1991⁽¹⁶⁾;
- (e) any person appointed as a visitor for him in accordance with paragraph 17 of Schedule 2 to the 1989 Act;
- (f) any person authorised by the Commission;
- (g) any person authorised by the local authority in whose area the children's home is situated;
- (h) any person authorised in accordance with section 80(2) of the 1989 Act by the Secretary of State to conduct an inspection of the children's home and the children there.

(3) In the case of a home in respect of which a certificate under section 51 of the 1989 Act is in force, the facilities may be at a different address.

(4) Subject to paragraphs (6) and (8), the registered person shall ensure that children accommodated in the home are provided at all reasonable times with access to the following facilities which they may use without reference to persons working in the home—

- (a) a telephone on which to make and receive telephone calls in private; and
- (b) facilities to send and receive post and, if the necessary facilities are provided for the use of children accommodated in the home, electronic mail, in private.

(5) The registered person shall ensure that any disabled child accommodated in the home is provided with access to such aids and equipment which he may require as a result of his disability in order to facilitate his communication with others.

(6) The registered person may (subject to paragraphs (7) and (8)) impose such restriction, prohibition or condition upon a child's contact with any person under paragraph (1) or access to communications under paragraph (4) which he is satisfied is necessary for the purpose of safeguarding or promoting the welfare of the child in question.

(7) No measure may be imposed by the registered person in accordance with paragraph (6) unless—

- (a) the child's placing authority consents to the imposition of the measure; or
- (b) the measure is imposed in an emergency, and full details are given to the placing authority within 24 hours of its imposition.

⁽¹⁵⁾ The Children and Family Court Advisory and Support Service (CAFCASS) is established by Chapter II of Part I of the Criminal Justice and Court Services Act 2000 (c. 43). Officers of CAFCASS are appointed for children in specified proceedings (section 41 of the 1989 Act).

⁽¹⁶⁾ S.I.1991/894 as amended by S.I.1991/2033, S.I. 1993/3069, and S.I. 2001/2874.

(8) This regulation is subject to the provisions of any relevant order of the court relating to contact between the child and any person.

Arrangements for the protection of children

- 16.**—(1) The registered person shall prepare and implement a written policy which—
- (a) is intended to safeguard children accommodated in the children’s home from abuse or neglect; and
 - (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.
- (2) The procedure under paragraph (1)(b) shall in particular provide for—
- (a) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in relation to any child accommodated in the children’s home;
 - (b) the prompt referral to the local authority in whose area the children’s home is situated, of any allegation of abuse or neglect affecting any child accommodated in the children’s home;
 - (c) notification (in accordance with regulation 30) of the instigation and outcome of any child protection enquiries involving any child accommodated in the children’s home, to the Commission and the child’s placing authority;
 - (d) written records to be kept of any allegation of abuse or neglect, and of the action taken in response;
 - (e) consideration to be given to the measures which may be necessary to protect children in the children’s home following an allegation of abuse or neglect;
 - (f) a requirement for persons working at the home to report any concerns about the welfare or safety of a child accommodated there to one of the following—
 - (i) the registered person;
 - (ii) a police officer;
 - (iii) an officer of the Commission;
 - (iv) an officer of the local authority in whose area the home is situated, or
 - (v) an officer of the National Society for the Prevention of Cruelty to Children;
 - (g) arrangements to be made for persons working at the home and children accommodated there, to have access at all times and in an appropriate form, to information which would enable them to contact the local authority in whose area the children’s home is situated, or the Commission, concerning the welfare or safety of children accommodated in the home.
- (3) In this regulation “child protection enquiries” means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the 1989 Act relating to the protection of children.
- (4) The registered person shall prepare and implement as required—
- (a) a written policy for the prevention of bullying in the children’s home, which shall in particular set out the procedure for dealing with an allegation of bullying; and
 - (b) a procedure to be followed when any child accommodated in a children’s home is absent without permission.

Behaviour management, discipline and restraint

17.—(1) No measure of control, restraint or discipline which is excessive, unreasonable or contrary to paragraph (5) shall be used at any time on children accommodated in a children’s home.

- (2) The registered person shall prepare and implement a written policy (in this regulation referred to as “the behaviour management policy”) which sets out—
- (a) the measures of control, restraint and discipline which may be used in the children’s home; and
 - (b) the means whereby appropriate behaviour is to be promoted in the home.
- (3) The registered person shall—
- (a) keep under review and where appropriate revise the behaviour management policy; and
 - (b) notify the Commission of any such revision within 28 days.
- (4) The registered person shall ensure that within 24 hours of the use of any measure of control, restraint or discipline in a children’s home, a written record is made in a volume kept for the purpose which shall include—
- (a) the name of the child concerned;
 - (b) details of the child’s behaviour leading to the use of the measure;
 - (c) a description of the measure used;
 - (d) the date, time and location of, the use of the measure, and in the case of any form of restraint, the duration of the restraint;
 - (e) the name of the person using the measure, and of any other person present;
 - (f) the effectiveness and any consequences of the use of the measure; and
 - (g) the signature of a person authorised by the registered provider to make the record.
- (5) Subject to paragraphs (6) and (7) of this regulation, the following shall not be used as disciplinary measures on children accommodated in a children’s home—
- (a) any form of corporal punishment;
 - (b) any punishment relating to the consumption or deprivation of food or drink;
 - (c) any restriction, other than one imposed by a court or in accordance with regulation 15, on—
 - (i) a child’s contact with his parents, relatives or friends;
 - (ii) visits to him by his parents, relatives or friends;
 - (iii) a child’s communications with any of the persons listed in regulation 15(2); or
 - (iv) his access to any telephone helpline providing counselling for children;
 - (d) any requirement that a child wear distinctive or inappropriate clothes;
 - (e) the use or withholding of medication or medical or dental treatment;
 - (f) the intentional deprivation of sleep;
 - (g) the imposition of any financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;
 - (h) any intimate physical examination of the child;
 - (i) the withholding of any aids or equipment needed by a disabled child;
 - (j) any measure which involves—
 - (i) any child in the imposition of any measure against any other child; or
 - (ii) the punishment of a group of children for the behaviour of an individual child.
- (6) Nothing in this regulation shall prohibit—

- (a) the taking of any action by, or in accordance with the instructions of, a registered medical practitioner or a registered dental practitioner which is necessary to protect the health of a child;
- (b) the taking of any action immediately necessary to prevent injury to any person or serious damage to property; or
- (c) the imposition of a requirement that a child wear distinctive clothing for sporting purposes, or for purposes connected with his education or with any organisation whose members customarily wear uniform in connection with its activities.

Education, employment and leisure activity

18.—(1) The registered person shall promote the educational attainment of children accommodated in a children’s home, in particular by ensuring that—

- (a) the children make use of educational facilities appropriate to their age, aptitude, needs, interests and potential;
- (b) the routine of the home is organised so as to further children’s participation in education, including private study; and
- (c) effective links are maintained with any schools attended by children accommodated in the home.

(2) The registered person shall ensure that children accommodated in the home are—

- (a) encouraged to develop and pursue appropriate leisure interests; and
- (b) provided with appropriate leisure facilities and activities.

(3) Where any child in a children’s home has attained the age where he is no longer required to receive compulsory full-time education, the registered person shall assist with the making of, and give effect to, the arrangements made for his education, training and employment.

Religious observance

19. The registered person shall ensure that each child accommodated in a children’s home is enabled, so far as practicable—

- (a) to attend the services of;
- (b) to receive instruction in; and
- (c) to observe any requirement (whether as to dress, diet or otherwise) of,

the religious persuasion to which he belongs.

Health needs of children

20.—(1) The registered person shall promote and protect the health of the children accommodated in a children’s home.

(2) In particular the registered person shall ensure that—

- (a) each child is registered with a general practitioner;
- (b) each child has access to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services, as he may require;
- (c) each child is provided with such individual support, aids and equipment as he may require as a result of any particular health needs or disability he may have;
- (d) each child is provided with guidance, support and advice on health and personal care issues appropriate to his needs and wishes;

- (e) at all times, at least one person on duty at the children's home has a suitable first aid qualification;
- (f) any person appointed to the position of nurse at the children's home is a registered nurse.

Medicines

21.—(1) The registered person shall make suitable arrangements for the recording, handling, safekeeping, safe administration and disposal of any medicines received into the children's home.

- (2) In particular the registered person shall ensure, subject to paragraph (3), that—
 - (a) any medicine which is kept in a children's home is stored in a secure place so as to prevent any child accommodated there having unsupervised access to it;
 - (b) any medicine which is prescribed for a child is administered as prescribed, to the child for whom it is prescribed, and to no other child; and
 - (c) a written record is kept of the administration of any medicine to any child.
- (3) Paragraph (2) does not apply to a medicine which—
 - (a) is stored by the child for whom it is provided in such a way that others are prevented from using it; and
 - (b) may be safely self-administered by that child.
- (4) In this regulation, "prescribed" means—
 - (a) ordered for a patient for provision to them—
 - (i) under or by virtue of the National Health Service Act 1977; or
 - (ii) as part of the performance of personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997; or
 - (b) in a case not falling within sub-paragraph (a), prescribed for a patient under section 58 of the Medicines Act 1968⁽¹⁷⁾.

Use of surveillance

22. Subject to any requirements for electronic monitoring imposed by a court under any enactment, the registered person shall ensure that electronic or mechanical monitoring devices for the surveillance of children are not used in a children's home, except for the purpose of safeguarding and promoting the welfare of the child concerned, or other children accommodated in the children's home, and where the following conditions are met—

- (a) the child's placing authority consents to the use of the measure in question;
- (b) it is provided for in the child's placement plan;
- (c) so far as practicable in the light of his age and understanding, the child in question is informed in advance of the intention to use the measure; and
- (d) the measure is no more restrictive than necessary, having regard to the child's need for privacy.

Hazards and safety

- 23.** The registered person shall ensure that—
- (a) all parts of the home to which children have access are so far as reasonably practicable free from hazards to their safety;

(17) 1968 c. 67. Section 58 has been amended by section 1 of the Medicinal Products: Prescription by Nurses etc. Act 1992 (c. 28).

- (b) any activities in which children participate are so far as reasonably practicable free from avoidable risks;
- (c) unnecessary risks to the health or safety of children accommodated in the home are identified and so far as possible eliminated,

and shall make suitable arrangements for persons working at the children's home to be trained in first aid.

Complaints and representations

24.—(1) Subject to paragraph (8), the registered person shall establish a written procedure for considering complaints made by or on behalf of children accommodated in the home.

(2) The procedure shall, in particular, provide—

- (a) for an opportunity for informal resolution of the complaint at an early stage;
- (b) that no person who is the subject of a complaint takes any part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;
- (c) for dealing with complaints about the registered person;
- (d) for complaints to be made by a person acting on behalf of a child;
- (e) for arrangements for the procedure to be made known to—
 - (i) children accommodated in the home;
 - (ii) their parents;
 - (iii) placing authorities; and
 - (iv) persons working in the home.

(3) A copy of the procedure shall be supplied on request to any of the persons mentioned in paragraph (2)(e).

(4) The copy of the procedure supplied under paragraph (3) shall include—

- (a) the name, address and telephone number of the Commission; and
- (b) details of the procedure (if any) which has been notified to the registered person by the Commission for the making of complaints to it relating to children's homes.

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

(6) The registered person shall ensure that—

- (a) children accommodated in the home are enabled to make a complaint or representation; and
- (b) no child is subject to any reprisal for making a complaint or representation.

(7) The registered person shall supply to the Commission at its request a statement containing a summary of any complaints made during the preceding twelve months and the action that was taken.

(8) This regulation (apart from paragraph (6)) does not apply to any matter to which the Representations Procedure (Children) Regulations 1991(**18**) applies.

(18) See the footnote to regulation 15(2)(d).

CHAPTER 2

Staffing

Staffing of children's homes

25.—(1) The registered person shall ensure that there is at all times, having regard to—

- (a) the size of the children's home, the statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there; and
- (b) the need to safeguard and promote the health and welfare of the children accommodated in the home,

a sufficient number of suitably qualified, competent and experienced persons working at the children's home.

(2) The registered person shall ensure that the employment of any persons on a temporary basis at the children's home will not prevent children from receiving such continuity of care as is reasonable to meet their needs.

Fitness of workers

26.—(1) The registered person shall not—

- (a) employ a person to work at the children's home unless that person is fit to work at a children's home; or
- (b) allow a person to whom paragraph (2) applies to work at the children's home unless that person is fit to work at a children's home.

(2) This paragraph applies to any person who is employed by a person other than the registered person to work at the children's home in a position in which he may in the course of his duties have regular contact with children accommodated there.

(3) For the purposes of paragraph (1), a person is not fit to work at a children's home unless—

- (a) he is of integrity and good character;
- (b) he has the qualifications, skills and experience necessary for the work he is to perform;
- (c) he is physically and mentally fit for the purposes of the work he is to perform; and
- (d) full and satisfactory information is available in relation to him in respect of the following matters—
 - (i) except where paragraph (4) applies, each of the matters specified in paragraphs 1 to 6 of Schedule 2;
 - (ii) where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 7 of Schedule 2.

(4) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997⁽¹⁹⁾ has not been brought into force.

(5) The registered person shall ensure that—

- (a) any offer of employment to a person is subject to paragraph (3)(d) being complied with in relation to that person; and
- (b) unless paragraph (6) applies, no person starts work at a children's home until such time as paragraph (3)(d) has been complied with in relation to him.

⁽¹⁹⁾ See the footnote to regulation 6(4).

(6) Where the following conditions apply, the registered person may permit a person to start work at a children's home notwithstanding paragraph (5)(b)—

- (a) the registered person has taken all reasonable steps to obtain full information in respect of each of the matters listed in Schedule 2 in respect of that person, but the enquiries in relation to any of the matters listed in paragraphs 3 to 6 of Schedule 2 are incomplete;
- (b) full and satisfactory information in respect of that person has been obtained in relation to—
 - (i) paragraph 1 of Schedule 2; and
 - (ii) except where paragraph (4) applies, paragraph 2 of that Schedule;
 - (iii) where paragraph (4) applies, paragraph 7 of that Schedule;
- (c) the registered person considers that the circumstances are exceptional; and
- (d) pending receipt of, and satisfying himself with regard to, any outstanding information, the registered person ensures that the person is appropriately supervised while carrying out his duties.

(6) The registered person shall take reasonable steps to ensure that any person working at the children's home who is not employed by him and to whom paragraph (2) does not apply, is appropriately supervised while carrying out his duties.

Employment of staff

27.—(1) The registered person shall—

- (a) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and
- (b) provide all employees with a job description outlining their responsibilities.

(2) The registered person shall operate a disciplinary procedure which, in particular—

- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of children accommodated in the home; and
- (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse, of a child accommodated in the home to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(3) For the purposes of paragraph (2)(b), an appropriate person is the registered person, an officer of the Commission or of the local authority in whose area the home is situated, or a police officer.

(4) The registered person shall ensure that all persons employed by him—

- (a) receive appropriate training, supervision and appraisal; and
- (b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

CHAPTER 3

Records

Children's case records

28.—(1) The registered person shall maintain in respect of each child who is accommodated in a children's home a record in permanent form which—

- (a) includes the information, documents and records specified in Schedule 3 relating to that child;
- (b) is kept up to date; and

- (c) is signed and dated by the author of each written entry.
- (2) The record mentioned in paragraph (1) may not be disclosed to any person except in accordance with—
 - (a) any provision of, or made under, or by virtue of, a statute under which access to such records is authorised; or
 - (b) any court order authorising access to such records.
- (3) The record mentioned in paragraph (1) shall be—
 - (a) kept securely in the children’s home so long as the child to whom it relates is accommodated there; and
 - (b) thereafter retained in a place of security,for at least seventy-five years from 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 fifteen years from the date of his death.

Other records

- 29.—(1) The registered person shall maintain in the children’s home the records specified in Schedule 4 and ensure that they are kept up to date.
- (2) The records referred to in paragraph (1) shall be retained for at least fifteen years from the date of the last entry, except for records of menus, which need be kept only for one year.

Notifiable events

- 30.—(1) If, in relation to a children’s home, any of the events listed in column 1 of the table in Schedule 5 takes place, the registered person shall without delay notify the persons indicated in respect of the event in column 2 of the table.
- (2) The registered person shall without delay notify the parent of any child accommodated in the home of any significant incident affecting the child’s welfare unless to do so is not reasonably practicable or would place the child’s welfare at risk.
- (3) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing.

PART IV
PREMISES

Fitness of premises

- 31.—(1) The registered person shall not use premises for the purposes of a children’s home unless they are in a location, and of a physical design and layout, which are suitable for the purpose of achieving the aims and objectives set out in the home’s statement of purpose.
- (2) The registered person shall ensure that all parts of the children’s home used by children are—
 - (a) adequately lit, heated and ventilated;
 - (b) secure from unauthorised access;
 - (c) suitably furnished and equipped;
 - (d) of sound construction and kept in good structural repair externally and internally;
 - (e) kept clean and reasonably decorated and maintained; and

- (f) equipped with what is reasonably necessary, and adapted as necessary, in order to meet the needs arising from his disability of any disabled child accommodated in the home so as to enable him to live as normal a life as possible.
- (3) The registered person shall ensure that the children's home is kept free from offensive odours and make suitable arrangements for the disposal of general and clinical waste.
- (4) The registered person shall ensure that there are within the children's home for use by children accommodated there in conditions of appropriate privacy—
- (a) a sufficient number of wash basins, baths and showers supplied with hot and cold running water; and
 - (b) a sufficient number of lavatories,
- for the number and sex of children accommodated.
- (5) The registered person shall provide for the number and needs of children accommodated in the children's home—
- (a) sufficient and suitable kitchen equipment, crockery, cutlery and utensils;
 - (b) adequate facilities for the preparation and storage of food; and
 - (c) so far as is practicable, adequate facilities for children to prepare their own food if they so wish, and are of an age and ability, to do so.
- (6) The registered person shall ensure that there are within a children's home adequate facilities for laundering linen and clothing, and, for children wishing to do so, to wash, dry and iron their own clothes.
- (7) The registered person shall ensure that there is provided within a children's home—
- (a) adequate communal space for sitting, recreation and dining; and
 - (b) such facilities for private study as are appropriate to the age and educational needs of the children accommodated.
- (8) The registered person shall ensure that each child is provided with sleeping accommodation which is—
- (a) suitable to his needs including his need for privacy; and
 - (b) equipped with furniture, storage facilities, lighting, bedding and other furnishings including window and floor coverings suitable to his needs.
- (9) The registered person shall ensure that no child shares a bedroom with an adult, nor (except in the case of siblings) a child who is of the opposite sex or of a significantly different age to him.
- (10) The registered person shall provide for persons working at the children's home—
- (a) suitable facilities and accommodation, other than sleeping accommodation, including—
 - (i) facilities for the purpose of changing;
 - (ii) storage facilities;
 - (b) sleeping accommodation where the provision of such accommodation is needed in connection with their work at the home.

Fire precautions

- 32.**—(1) The registered person shall after consultation with the fire authority—
- (a) take adequate precautions against the risk of fire, including the provision of suitable fire equipment;
 - (b) provide adequate means of escape;
 - (c) make adequate arrangements—

- (i) for detecting, containing and extinguishing fires;
 - (ii) for giving warnings of fires;
 - (iii) for evacuation in the event of fire;
 - (iv) for the maintenance of all fire equipment; and
 - (v) for reviewing fire precautions, and testing fire equipment, at suitable intervals;
- (d) make arrangements for persons working at the home to receive suitable training in fire prevention; and
- (e) ensure, by means of fire drills and practices at suitable intervals, that the persons working at the home and, so far as practicable, children accommodated there, are aware of the procedure to be followed in case of fire.
- (2) In this regulation, “fire authority” means the authority discharging in the area in which a children’s home is situated, the function of fire authority under the Fire Services Act 1947(20).

PART V

MANAGEMENT OF HOMES

Visits by registered provider

33.—(1) Where the registered provider is an individual, but is not in day to day charge of the children’s home, he shall visit the home in accordance with this regulation.

(2) Where the registered provider is an organisation or a partnership, the home shall be visited in accordance with this regulation by—

- (a) the responsible individual or one of the partners, as the case may be;
- (b) another of the directors or other persons responsible for the management of the organisation or partnership; or
- (c) an employee of the organisation or partnership who is not directly concerned with the conduct of the home.

(3) Visits under paragraph (1) or (2) shall take place at least once a month and may be unannounced.

(4) The person carrying out the visit shall—

- (a) interview, with their consent and in private, such of the children accommodated there, their parents, relatives and persons working at the home as appears necessary in order to form an opinion of the standard of care provided in the home;
- (b) inspect the premises of the children’s home, its daily log of events and records of any complaints; and
- (c) prepare a written report on the conduct of the home.

(5) The registered provider shall supply a copy of the report required to be made under paragraph (4)(c) to—

- (a) the Commission;
- (b) the registered manager of the children’s home; and
- (c) in the case of a visit under paragraph (2)—

- (i) where the registered provider is an organisation, to each of the directors or other persons responsible for the management of the organisation; and
- (ii) where the registered provider is a partnership, to each of the partners.

Review of quality of care

34.—(1) The registered person shall establish and maintain a system for—

- (a) monitoring the matters set out in Schedule 6 at appropriate intervals; and
- (b) improving the quality of care provided in the children’s home.

(2) The registered person shall supply to the Commission a report in respect of any review conducted by him for the purposes of paragraph (1), and make a copy of the report available on request to children accommodated in the home, their parents and placing authorities.

(3) The system referred to in paragraph (1) shall provide for consultation with children accommodated in the home, their parents and placing authorities.

Regulations and guidance

35. The registered person shall ensure that a copy of these Regulations (and of any amendments to them) and of the statement of national minimum standards applicable to children’s homes published by the Secretary of State under section 23(1) of the Act are kept in the home and made available on request to—

- (a) any person working in the home;
- (b) any child accommodated in the home; and
- (c) the parent of any child accommodated in the home.

Financial position

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

(2) The registered person shall—

- (a) ensure that adequate accounts are maintained and kept up to date in respect of a children’s home;
- (b) supply a copy of the accounts to the Commission at its request.

(3) The registered person shall provide the Commission with such information as it may require for the purpose of considering the financial viability of the children’s home, including—

- (a) the annual accounts of the home certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider’s financial standing;
- (c) information as to the financing and financial resources of the home;
- (d) where the registered provider is a company, information as to any of its associated companies; and
- (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by him in relation to the home in respect of death, injury, public liability, damage or other loss.

(4) In this regulation a company is an associated company of another if one of them has control of the other or both are under the control of the same person.

PART VI

MISCELLANEOUS

Notice of absence

37.—(1) Where—

- (a) the registered provider, if he is the person in day to day charge of the children's home; or
- (b) the registered manager,

proposes to be absent from the home for a continuous period of 28 days or more, the registered person shall give notice in writing to the Commission of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the proposed absence commences, or within such shorter period as may be agreed with the Commission and the notice shall specify with respect to the proposed absence—

- (a) its length or expected length;
- (b) the reason for it;
- (c) the arrangements which have been made for running the children's home;
- (d) the name, address and qualifications of the person who will be responsible for the home during the absence; and
- (e) in the case of the absence of the registered manager, the arrangements that have been or are proposed to be made for appointing another person to manage the children's home during the absence, including the proposed date by which the appointment is to be made.

(3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within one week of its occurrence specifying the matters mentioned in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) the registered provider if he is the person in day to day charge of the home; or
- (b) the registered manager,

has been absent from the children's home for a continuous period of 28 days or more, and the Commission has not been given notice of the absence, the registered person shall without delay give notice in writing to the Commission specifying the matters mentioned in sub-paragraphs (a) to (e) of paragraph (2).

(5) The registered person shall notify the Commission of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of his return.

Notice of changes

38. The registered person shall give notice in writing to the Commission as soon as it is practicable to do so if any of the following events take place or are proposed to take place—

- (a) a person other than the registered person carries on or manages the children's home;
- (b) a person ceases to carry on or manage the home;
- (c) where the registered provider is an individual, he changes his name;
- (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (e) where the registered provider is an organisation—

- (i) the name or address of the organisation is changed;
- (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
- (iii) there is to be any change in the identity of the responsible individual;
- (f) where the registered provider is an individual, a trustee in bankruptcy is appointed, or he makes a composition or arrangement with his creditors;
- (g) where the registered provider is a company, a receiver, manager, liquidator or provisional liquidator is appointed; or
- (h) the premises of the home are significantly altered or extended, or additional premises are acquired.

Appointment of liquidators etc.

- 39.**—(1) Any person to whom paragraph (2) applies shall—
- (a) forthwith notify the Commission of his appointment indicating the reasons for it;
 - (b) appoint a manager to take full-time day to day charge of the children’s home in any case where there is no registered manager; and
 - (c) not more than 28 days after his appointment notify the Commission of his intentions regarding the future operation of the home.
- (2) This paragraph applies to any person appointed as—
- (a) the receiver or manager of the property of a company or partnership which is a registered provider of a children’s home;
 - (b) a liquidator or provisional liquidator of a company which is the registered provider of a children’s home; or
 - (c) the trustee in bankruptcy of a registered provider of a children’s home.

Death of registered person

- 40.**—(1) If more than one person is registered in respect of a children’s home, and a registered person dies, the other registered person shall without delay notify the Commission of the death in writing.
- (2) If only one person is registered in respect of a children’s home, and he dies, his personal representatives shall notify the Commission in writing—
- (a) without delay of the death; and
 - (b) within 28 days of their intentions regarding the future running of the home.
- (3) The personal representatives of the deceased registered provider may carry on the home without being registered in respect of it—
- (a) for a period not exceeding 28 days;
 - (b) for any further period as may be determined in accordance with paragraph (4).
- (4) The Commission may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the Commission shall determine and shall notify any such determination to the personal representatives in writing.
- (5) The personal representatives shall appoint a person to take full-time day to day charge of the home during any period in which in accordance with paragraph (3), they carry on the children’s home without being registered in respect of it.

Offences

41.—(1) A contravention or failure to comply with the provisions of regulations 4 to 38 shall be an offence.

(2) The Commission shall not bring proceedings against a person in respect of any contravention or failure to comply with those regulations unless—

- (a) subject to paragraph (4), he is a registered person;
- (b) notice has been given to him in accordance with paragraph (3);
- (c) the period specified in the notice has expired; and
- (d) the person contravenes or fails to comply with any of the provisions of the regulations mentioned in the notice.

(3) Where the Commission considers that the registered person has contravened or failed to comply with any of the provisions of the regulations mentioned in paragraph (1), it may serve a notice on the registered person specifying—

- (a) in what respect in its opinion the registered person has contravened or is contravening any of the regulations, or has failed or is failing to comply with the requirements of any of the regulations;
- (b) what action, in the opinion of the Commission, the registered person should take so as to comply with any of those regulations; and
- (c) the period, not exceeding three months, within which the registered person should take action.

(4) The Commission may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulations 28(3) or 29(2) and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

Compliance with regulations

42. Where there is more than one registered person in respect of a children's home, anything which is required under these Regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

Revocation

43. The following Regulations are revoked—

- (a) the Children's Homes Regulations 1991(**21**);
- (b) regulation 2 of the Children (Homes, Arrangements for Placement, Review and Representations) (Miscellaneous Amendments) Regulations 1993(**22**);
- (c) the Children's Homes Amendment Regulations 1994(**23**); and
- (d) regulation 4 of the Children (Protection from Offenders) (Miscellaneous Amendments) Regulations 1997(**24**).

(21) S.I. 1991/1506.

(22) S.I. 1993/3069.

(23) S.I. 1994/1511.

(24) S.I. 1997/2308.

11th December 2001

Jacqui Smith
Minister of State,
Department of Health