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STATUTORY INSTRUMENTS

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**2011 No. 581**

**The Fostering Services (England) Regulations 2011**

**PART 6**

**Fostering Agencies—Miscellaneous**

**Fostering agency ceasing to carry out fostering functions – notifications and records**

**33.**—(1) Where a fostering agency is to cease carrying out the functions of a fostering agency (“the old agency”) the registered provider must without delay notify —

- (a) the local authority fostering service in whose area the old agency is situated,
- (b) the Chief Inspector,
- (c) every foster parent currently approved by the old agency under regulation 27 and every other foster parent for whom the old agency has responsibility by virtue of paragraph (2), and
- (d) the responsible authority and, where different, the placing authority for every child currently placed with a foster parent falling within sub-paragraph (c),

of the fact that it is to cease carrying out the functions of a fostering agency and, in the case of notifications under sub-paragraphs (c) and (d), of the identity of the new fostering service.

(2) The registered provider of the old agency may agree with—

- (a) a local authority fostering service, or
  - (b) another fostering agency
- that that fostering service will become the fostering service (“the new fostering service”) in relation to some or all of the foster parents falling within paragraph (1)(c).

(3) In the absence of an agreement under paragraph (2) in relation to some or all of the foster parents falling within paragraph (1)(c), the local authority fostering service in whose area each foster parent lives will become the new fostering service in relation to them.

(4) The registered provider of the old agency must, before the date on which the agency ceases carrying out the functions of a fostering agency—

- (a) arrange for the records of the old agency maintained by virtue of regulation 30 in relation to the foster parents falling within paragraph (1)(c) to be passed to the relevant new fostering agency, and
- (b) arrange for all other records maintained by the old agency by virtue of these Regulations to be passed to the local authority in whose area the old agency is situated.

(5) A responsible authority notified under paragraph (1)(d) must inform the IRO for each child they are looking after of the fact that the old agency is to cease carrying out the functions of a fostering agency, and the identity of the new fostering service for that child’s foster parent.

**Fostering agency ceasing to carry out fostering functions – new fostering service providers**

**34.**—(1) Within 16 weeks of the date on which the old agency ceases carrying out the functions of a fostering agency, the fostering service provider in relation to a new fostering service (“the new fostering service provider”) must, unless it is not reasonably practicable to do so, carry out an assessment of any foster parent for whom it has assumed responsibility by virtue of regulation 33(2) or (3) (a “transferred foster parent”) and decide whether to approve them as a foster parent, in accordance with the provisions of regulations 26 and 27, with the modification that regulation 27(1) does not apply.

- (2) The transferred foster parent’s approval by the old agency is terminated —
- (a) when the new fostering service provider make their decision under regulation 27(8), (9) (b) or (10) (as the case may be), or
  - (b) subject to paragraph (3), if the new fostering service provider fail to carry out the assessment and make their decision within the period of 16 weeks referred to in paragraph (1).

(3) Where it is not reasonably practicable for the new fostering service provider to complete their assessment and make their decision within the period of 16 weeks referred to in paragraph (1), the transferred foster parent’s approval may be extended for such period as is necessary for the fostering service provider to make their decision.

**Review of quality of care**

- 35.**—(1) The registered person must maintain a system for—
- (a) monitoring the matters set out in Schedule 6 at appropriate intervals, and
  - (b) improving the quality of foster care provided by the fostering agency.

(2) The registered person must provide the Chief Inspector with a written report in respect of any review conducted for the purposes of paragraph (1) and, on request, to any local authority.

(3) The system referred to in paragraph (1) must provide for consultation with foster parents, children placed with foster parents, and their placing authority (unless, in the case of a fostering agency which is a voluntary organisation, it is also the placing authority).

**Notifiable events**

**36.**—(1) If any of the events listed in column 1 of the table in Schedule 7 takes place in relation to a fostering agency, the registered person must without delay notify the persons or bodies indicated in respect of the event in column 2 of the table.

(2) Any notification made in accordance with this regulation which is given orally must be confirmed in writing.

**Financial position**

**37.**—(1) The registered provider must carry on the fostering agency in such manner as is likely to ensure that it will be financially viable for the purpose of achieving the aims and objectives set out in its statement of purpose.

- (2) The registered provider must—
- (a) ensure that adequate accounts are maintained and kept up to date in respect of the fostering agency, and
  - (b) supply a copy of the accounts, if requested to do so, to the Chief Inspector.

(3) The registered provider must provide the Chief Inspector with information requested for the purpose of considering the financial viability of the fostering agency, including—

- (a) the annual accounts of the fostering agency, 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 fostering agency,
- (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 fostering agency in respect of death, injury, public liability, damage or other loss.

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

#### **Notice of absence**

**38.**—(1) Where the registered manager proposes to be absent from the fostering agency for a continuous period of 28 days or more, the registered person must give notice in writing to the Chief Inspector of the proposed absence.

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

- (a) the length or expected length of the proposed absence,
- (b) the reason for the proposed absence,
- (c) the arrangements which have been made for the running of the fostering agency during that absence,
- (d) the name, address and qualifications of the person who will be responsible for the fostering agency during the absence, and
- (e) the arrangements that have been made or are proposed to be made for appointing another person to manage the fostering agency during the absence, including the proposed date by which the appointment is to start.

(3) Where the absence arises as a result of an emergency, the registered person must 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 the registered manager has been absent from the fostering agency for a continuous period of 28 days or more, and the Chief Inspector has not been given notice of the absence, the registered person must without delay give notice in writing to the Chief Inspector specifying the matters mentioned in paragraph (2).

(5) The registered person must notify the Chief Inspector of the return to duty of the registered manager not later than 7 days after the date of return.

#### **Notice of changes**

**39.**—(1) The registered person must give notice in writing to the Chief Inspector without delay if any of the following events takes place or is proposed to take place—

- (a) a person other than the registered person carries on or manages the fostering agency,
- (b) a person ceases to carry on or manage the fostering agency,

- (c) where the registered provider is an individual, they change their 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 any composition or arrangement with his creditors, or
  - (g) where the registered provider is a company, or a partnership, a receiver, manager, liquidator or provisional liquidator is appointed in respect of the registered provider.
- (2) The registered provider must notify the Chief Inspector in writing and without delay of the death of the registered manager.

#### **Appointment of liquidators**

- 40.**—(1) Any person to whom paragraph (2) applies must—
- (a) notify the Chief Inspector without delay of their appointment indicating the reasons for it,
  - (b) appoint a manager to take full-time day to day charge of the fostering agency in any case where there is no registered manager, and
  - (c) not more than 28 days after their appointment notify the Chief Inspector of their intentions regarding the future operation of the fostering agency.
- (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 fostering agency,
  - (b) a liquidator or provisional liquidator of a company which is the registered provider of a fostering agency, or
  - (c) the trustee in bankruptcy of a registered provider of a fostering agency.

#### **Compliance with Regulations**

**41.** Where there is more than one registered person in respect of a fostering agency, anything which is required under these Regulations to be done by the registered person, need only be done by one of the registered persons.