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STATUTORY INSTRUMENTS

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**2011 No. 581**

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

**PART 5**

**Approval of Foster Parents**

**Assessment of prospective foster parents**

**26.**—(1) The fostering service provider may carry out an assessment of any person who applies to become a foster parent and whom they consider may be suitable to become a foster parent (“X”), and any such assessment must be carried out in accordance with this regulation.

(2) The fostering service provider—

- (a) must obtain the information specified in Schedule 3 relating to X and other members of X’s household and family, and any other information they consider relevant,
- (b) must interview at least two persons nominated by X to provide personal references for X, and prepare written reports of the interviews,
- (c) except where the fostering service provider is a local authority and X lives in the area of that authority, must consult with, and take into account the views of, the local authority in whose area X lives,
- (d) may, where X was approved as a foster parent by another fostering service provider and that approval has been terminated, and where X consents to the inspection, request inspection of the relevant records compiled by that other fostering service provider in relation to X under regulations 30 and 31.

(3) Having regard to the information obtained under paragraph (2), the fostering service provider must—

- (a) consider whether X is suitable to be a foster parent and whether X’s household is suitable for any child,
- (b) prepare a written report on X which includes the matters set out in paragraph (4), and
- (c) refer the report to the fostering panel and notify X accordingly.

(4) The report referred to in paragraph (3) must include the following matters in relation to X—

- (a) the information required by Schedule 3 and any other information the fostering service provider consider relevant,
- (b) the fostering service provider’s assessment of X’s suitability to be a foster parent, and
- (c) the fostering service provider’s proposals about any terms of the approval.

(5) Subject to paragraph (8), X is not suitable to be a foster parent if X, or any member of X’s household aged 18 or over—

- (a) has been convicted of a specified offence committed at the age of 18 or over, or
- (b) has been cautioned by a constable in respect of any such offence.

(6) In paragraph (5) “specified offence” means—

- (a) an offence against a child,
- (b) an offence specified in Part 1 of Schedule 4,
- (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979<sup>(1)</sup> in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876<sup>(2)</sup> (prohibitions and restrictions relating to pornography) where the prohibited goods included indecent photographs of children under the age of 16,
- (d) any other offence involving bodily injury to a child, other than an offence of common assault or battery, and

the expression “offence against a child” has the meaning given to it by section 26(1) of the Criminal Justice and Court Services Act 2000<sup>(3)</sup> except that it does not include an offence contrary to section 9 of the Sexual Offences Act 2003<sup>(4)</sup> (sexual activity with a child) in a case where the offender was under the age of 20 at the time the offence was committed and the child was aged 13 or over.

(7) Subject to paragraph (8), X is not suitable to be a foster parent if X, or any member of X’s household aged 18 or over—

- (a) has been convicted of an offence specified in paragraph 1 of Part 2 of Schedule 4 committed at the age of 18 or over, or has been cautioned by a constable in respect of any such offence, or
- (b) falls within paragraph 2 or 3 of Part 2 of Schedule 4, notwithstanding that the statutory offences in Part 2 of Schedule 4 have been repealed.

(8) The fostering service provider may regard a person who falls within paragraph (5) or (7) as suitable to be a foster parent in relation to a particular child (or children), if the fostering service provider is satisfied that the welfare of that child (or those children) requires it, and either—

- (a) the person, or a member of their household, is a relative of the child, or
- (b) the person is already acting as a foster parent for the child.

(9) In—

- (a) this regulation and Schedule 4, ‘constable’ has the meaning given in section 5 of the Police Act 1993<sup>(5)</sup>, and
- (b) this regulation, and regulations 27 and 28 and Schedules 3 and 5, a person who is living in X’s household in parent and child arrangements, is a member of X’s household.

(1) 1979 c. 2.

(2) 1876 c.36. Section 42 was amended by Part 9 of Schedule 1 to the Statute Law (Repeals) Act 1993 (c.50), and paragraph 1 of Schedule 2 to the Statute Law (Repeals) Act 2008 (c.12) and by other provisions which are not relevant to these Regulations.

(3) 2000 c. 43. Section 26 is repealed by Schedule 10 of the 2006 Act on a date to be appointed.

(4) 2003 c. 42.

(5) 1993 c. 11.