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STATUTORY INSTRUMENTS

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**2015 No. 495**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Care Planning and Fostering (Miscellaneous Amendments) (England) Regulations 2015**

<i>Made</i>	- - - -	<i>4th March 2015</i>
<i>Laid before Parliament</i>		<i>6th March 2015</i>
<i>Coming into force</i>	- -	<i>1st April 2015</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 22C(11), 23ZA(1)(b), (3) and (4), 23E(1B), 23E(2), 25B(2)(a), 26(1) and (2), 31A(3) and 104(4) of, and paragraphs 12E, 12F and 19B(7) of Schedule 2 to the Children Act 1989(1).

**Citation and commencement**

1. These Regulations may be cited as the Care Planning and Fostering (Miscellaneous Amendments) (England) Regulations 2015 and come into force on 1st April 2015.

**Amendment of the Care Planning, Placement and Case Review (England) Regulations 2010**

2. The Care Planning, Placement and Case Review (England) Regulations 2010(2) are amended as follows.

3. In regulation 2(1) (interpretation) in the appropriate places insert—

““long term foster placement” means an arrangement made by the responsible authority for C to be placed with F where—

- (a) C’s plan for permanence is foster care,
- (b) F has agreed to act as C’s foster parent until C ceases to be looked after, and

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(1) 1989 c. 41. Section 22C was inserted by section 8(1) of the Children and Young Persons Act 2008 (c.23) (“the 2008 Act”); section 23ZA was inserted by section 15 of the 2008 Act; section 23E(1B) and (2) were inserted by sections 22(3) and 39 of the 2008 Act; section 25B was inserted by section 10(1) of the 2008 Act; section 26(1) was amended by section 39 of, and paragraphs 1 and 16(1) and (2) of Schedule 3 to, the 2008 Act and section 26(2) was amended by section 118(1)(a) of the Adoption and Children Act 2002 (c.38) (“the 2002 Act”) and by section 10(3)(a) of the 2008 Act; section 31A was inserted by section 121(2) of the 2002 Act; section 104(4) was amended by section 39 of, and Schedules 3 and 4 to, the 2008 Act; paragraph 12E of Schedule 2 was inserted by paragraph 4 of Schedule 1 to the 2008 Act and paragraph 19B(7) of Schedule 2 was amended by section 39 of the 2008 Act. For the definition of “prescribed” see section 105(1).

(2) S.I. 2010/959, amended by S.Is 2011/581, 2013/706 and 2013/984.

- (c) the responsible authority has confirmed the nature of the arrangement to F, P and C, and any reference to the responsible authority placing C in such a placement includes, where C is already placed with F, leaving C with F in a long term foster placement;”;
- ““plan for permanence” has the meaning given in regulation 5(1)(a);”.

4. After regulation 22A (placement following consideration in accordance with section 22C(9B) (c) of the Act) insert—

**“Conditions to be complied with before placing C in a long term foster placement**

**22B.**—(1) This regulation applies where the responsible authority propose to place C with F in a long term foster placement.

- (2) The responsible authority may only place C with F if—
  - (a) the responsible authority have prepared a placement plan for C,
  - (b) the requirements of regulation 9(1)(b)(i) have been complied with,
  - (c) the placement will safeguard and promote C’s welfare,
  - (d) the IRO has been consulted,
  - (e) C’s relatives have been consulted, where appropriate, and
  - (f) F intends to act as C’s foster parent until C ceases to be looked after.”.

5. In regulation 28 (frequency of visits)—

- (a) after paragraph (3) insert—

“(3A) Where—

- (a) C is in a long term foster placement and has been in that placement for at least one year, and
- (b) C, being of sufficient age and understanding, agrees to be visited less frequently than required by paragraph (2)(c),

the responsible authority must ensure that R visits C at intervals of no more than 6 months.” and

- (b) in paragraph (7)(a)(ii) after “(3)” insert “, (3A)”.

6. In regulation 36(1)(c) (the role of the IRO) before “have been ascertained” insert “and the views of the appropriate person,”.

7. For regulation 39 (arrangements for ceasing to look after a child who is not an eligible child) substitute—

**“Arrangements to be made when the responsible authority is considering ceasing to look after C**

**39.**—(1) This regulation applies where the responsible authority are considering ceasing to look after C.

- (2) Before deciding to cease to look after C the responsible authority must—
  - (a) carry out an assessment of the suitability of the proposed arrangements for C’s accommodation and maintenance when C ceases to be looked after by them,
  - (b) carry out an assessment of the services and support that C and, where applicable P, might need when the responsible authority ceases to look after C,

- (c) ensure that C's wishes and feelings have been ascertained and given due consideration, and
- (d) consider whether, in all the circumstances and taking into account any services or support the responsible authority intend to provide, that ceasing to look after C will safeguard and promote C's welfare.

(3) The responsible authority must include in C's care plan (or where regulation 47B(4) applies, the detention placement plan) details of the advice, assistance and support that the responsible authority intend to provide for C when C ceases to be looked after by them.

(4) Subject to paragraph (5), where C has been a looked after child for at least 20 working days, any decision to cease to look after C must not be put into effect until it has been approved by a nominated officer.

(5) In any case where C is aged 16 or 17 and is not in the care of the local authority, the decision to cease to look after C must not be put into effect until it has been approved by the responsible authority's director of children's services.

(6) Before approving a decision under paragraph (4) or (5), the nominated officer or director of children's services must be satisfied that—

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) ceasing to look after C will safeguard and promote C's welfare,
- (c) the support the responsible authority intend to provide will safeguard and promote C's welfare,
- (d) C's relatives have been consulted, where appropriate,
- (e) the IRO has been consulted, and
- (f) where appropriate, regulations 40 to 43 have been complied with.”.

8. Omit regulation 39ZA.

9. In paragraph 3 of Schedule 2, after subparagraph (1) insert—

“(1ZA) Where C is placed with F in a long term foster placement, that fact.”.

10. In Schedule 7 at the end insert—

“15. Whether the delegation of authority to make decisions about C's care and upbringing, if any, recorded in C's care plan by virtue of paragraph 3(4A) of Schedule 2, continues to be appropriate and in C's best interests.”.

### **Amendment of the Independent Review of Determinations (Adoption and Fostering) Regulations 2009**

11. In regulation 13 (functions of a panel constituted to review a fostering determination) of the Independent Review of Determinations (Adoption and Fostering) Regulations 2009(3) for paragraph (2) substitute—

“(2) The panel shall review the fostering determination and—

- (a) where paragraph (2A) applies, make to the fostering service provider that made the fostering determination—
  - (i) a recommendation as to whether or not the applicant is suitable to act as a foster parent, or

- (ii) where the qualifying determination relates to the terms of the approval of the applicant as suitable to act as a foster parent, a recommendation to the fostering service provider as to those terms.
- (b) where paragraph (2B) applies, make to the fostering service provider that made the fostering determination, a recommendation that—
  - (i) it should prepare a written report in accordance with regulation 26(2)(c) of the FSR to include all the information required by that regulation, or
  - (ii) the applicant is not suitable to foster a child.
- (2A) This paragraph applies where the fostering determination included all the information required by regulation 26(2)(c) of the FSR.
- (2B) This paragraph applies where the fostering determination, in accordance with regulation 26(3) of the FSR, did not include all the information required by regulation 26(2)(c) of the FSR.”.

#### **Amendment of the Fostering Services (England) Regulations 2011**

**12.** In regulation 25 (functions of fostering panel) of the Fostering Services (England) Regulations 2011(4) after paragraph (2) insert—

“(2A) In relation to the case of a person in respect of whom a report has been prepared in accordance with regulation 26(3), the fostering panel must either—

- (a) request the fostering service provider to prepare a further written report, covering all the matters set out in regulation 26(2)(c); or
- (b) recommend that the person is not suitable to be a foster parent.”.

#### **Amendment of the Care Leavers (England) Regulations 2010**

**13.** The Care Leavers (England) Regulations 2010(5) are amended as follows.

**14.** In regulation 5 (assessment of needs)—

- (a) at the end of paragraph (4)(a) omit the word “and”, and
- (b) at the end of paragraph (4)(b) insert the word “and”.

**15.** In paragraph 11 of Schedule 1 (matters to be dealt with in the pathway plan and review) for “5(4)(aa)” substitute “5(4)(c)”.

4th March 2015

*Edward Timpson*  
Parliamentary Under Secretary of State  
Department for Education

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(4) S.I. 2011/581, amended by S.I. 2013/984. There are other amendments not relevant to these Regulations.

(5) S.I. 2010/2571, amended by S.Is 2012/979 and 2014/1917. There are other amendments not relevant to these Regulations.

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## EXPLANATORY NOTE

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

These Regulations come into force on 1st April 2015.

They amend the Care Planning, Placement and Case Review (England) Regulations 2010 (“the 2010 Regulations”), which make provision about care planning for looked after children (i.e. children who are looked after by a local authority). They create a statutory concept of “long term fostering” by inserting a definition of “long term foster placement” into the 2010 Regulations (regulation 3), setting out the conditions that must be complied with before a child can be placed in a long term fostering placement (regulation 4) and making provision as to the frequency of reviews (regulation 5).

They also amend the 2010 Regulations to set out the arrangements that a local authority must make when they are considering ceasing to look after a child including the need for the decision to be approved by a nominated officer or the director of children’s services (regulation 7).

They amend the Independent Review of Determinations (Adoption and Fostering) Regulations 2009 to provide that where the fostering determination made by the fostering service provider does not contain all the information required by regulation 26(2)(c) of the Fostering Services Regulations 2011 (“the 2011 Regulations”), the panel may recommend to the fostering service provider that it should prepare a written report that includes all the information (regulation 11).

They also amend the 2011 Regulations to provide that where a report has been prepared in accordance with regulation 26(3) of the 2011 Regulations that the panel must either request that the fostering service provider prepare a further written report or recommend that the person is not suitable to be a foster parent (regulation 12).

They also make minor amendments to the Care Leavers (England) Regulations 2010 (regulations 14 and 15).

An impact assessment has not been produced for this instrument as it has no impact on businesses and civil society organisations. The instrument has a minimal impact on the public sector.