

Subsidiary Legislation made under s.158.

Children (Care Planning, etc.) Regulations 2010

LN.2010/161

Commencement **4.11.2010**
(except 5(1), 6, 11(1), 14(d), 23(8-(9)), 26, 28-33, 39(2)(b))

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2009-24

Children

2010/161

Children (Care Planning, etc.) Regulations 2010

In exercise of the powers conferred on him by section 158 of the Children Act 2009 and all other powers enabling, the Minister with responsibility for families and children has made the following Regulations:

PART 1

General

Title and commencement.

1.(1) These Regulations may be cited as the Children (Care Planning, etc.) Regulations 2010.

(2) These Regulations come into operation on the day of publication except—

(a) regulations 5(1), 6, 11(1), 14(d), 23(8) and (9), 26, 39(2)(b); and

(b) Part 6.

(3) The regulations referred to in paragraphs (a) and (b) of subregulation (2), come into operation on the day appointed by the Minister by notice in the Gazette and different days may be appointed for different provisions.

Interpretation.

2.(1) In these Regulations—

“Act” means the Children Act 2009;

“Agency” means the Care Agency established under section 3 of the Care Agency Act 2009;

“appropriate person” means—

(a) the relevant person, where the child is to live, or lives with the relevant person;

(b) the foster carer, where the child is to be placed, or is placed, with the foster carer;
or

(c) where the child is to be placed, or is placed, in accordance with other arrangements under regulation 23(4)(d), the person who will be responsible for the child at the accommodation;

“care plan” means the plan for the future care of the child prepared in accordance with Part 2;

“case record” has the meaning given in regulation 39;

“connected person” has the meaning given in regulation 20;

“foster carer” means a person who is approved by the Agency for the purpose of fostering and with whom it is proposed to place the child or, as the case may be, with whom the child is placed;

“health plan” has the meaning given in regulation 4(b)(i);

“Minister” means the Minister with responsibility for families and children;

“nominated officer” means a senior officer of the Agency nominated in writing by the Minister for the purposes of these Regulations;

“personal adviser” means the personal adviser arranged for the child under regulation 35;

“personal education plan” has the meaning given in regulation 4(b)(ii);

“placement” means—

- (a) arrangements made by the authority for the child to live with the relevant person in accordance with regulation 23(1), where the child is in the care of the authority; or
- (b) arrangements made by the Agency to provide for the child’s accommodation and maintenance by any of the means specified in regulation 23(4);

“placement plan” has the meaning given in regulation 8(1)(a);

“relevant person” means the person referred to in regulation 23(1);

“representative” means a representative of the Agency who is appointed by the Minister to visit the child in accordance with arrangements made by the Agency;

“special educational needs” and “special educational provision” have the meanings given in Part VIII of the Education and Training Act;

“temporary approval” has the meaning given in regulation 20(1); and

“working day” means any day other than—

- (a) a Saturday or a Sunday;

- (b) Christmas day or Good Friday; or
- (c) a bank holiday in Gibraltar under the Banking and Financial Dealings Act.

(2) In these Regulations any reference to any document or other record includes any such document or record that is kept or provided in a readily accessible form and includes copies of original documents and electronic methods of recording information.

(3) Except as otherwise provided—

- (a) any reference in these Regulations to a numbered section is a reference to that section in the Act; and
- (b) any reference in these Regulations to a numbered regulation, Part or Schedule is a reference to that regulation, Part or Schedule in these Regulations.

PART 2

Arrangements for looking after a child

Care planning.

3.(1) Where a care plan is required to be made under the Act and the child is not in the care of the Agency and a care plan for the child has not already been prepared, the Agency must assess the child's needs for services to achieve or maintain a reasonable standard of health or development, and prepare such a plan.

(2) Except in the case of a child to whom section 65, or where subregulation (6) applies, the care plan must be prepared before the child is first placed by the Agency or, if it is not practicable to do so, within ten working days of the start of the first placement.

(3) When assessing the child's needs under subregulation (1), the Agency must consider whether the child's placement meets the requirements of the sections under the heading "Services for children in need" in Part X of the Act.

(4) Unless subregulation (5) applies, the care plan should, so far as is reasonably practicable, be agreed by the Agency with—

- (a) any parent of the child and any person who is not the child's parent but who has parental responsibility for the child; or
- (b) if there is no such person, the person who was caring for the child immediately before the Agency arranged a placement for the child.

(5) Where the child is aged 16 or over and agrees to be provided with accommodation under section 106, the care plan should be agreed with the child by the Agency.

(6) Where the child was first placed by the Agency before these Regulations came into operation, the care plan must be prepared as soon as reasonably practicable.

Preparation and content of the care plan.

4. For the purposes of these Regulations and section 65, a care plan must include a record of the following information—

- (a) the long term plan for the child’s upbringing (“plan for permanence”);
- (b) the arrangements made by the Agency to meet the child’s needs in relation to one or more of the following—
 - (i) health, including the information set out in paragraph 1 of Schedule 1 (“health plan”),
 - (ii) education and training, including, so far as reasonably practicable, the information set out in paragraph 2 of Schedule 1 (“personal education plan”),
 - (iii) emotional and behavioural development,
 - (iv) identity, with particular regard to the child’s religious persuasion, racial origin and cultural and linguistic background,
 - (v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 1,
 - (vi) social presentation, and
 - (vii) self-care skills;
- (c) except in a case where the child is in the care of the Agency but is not provided with accommodation by them by any of the means specified in regulation 23, the placement plan; and
- (d) details of the wishes and feelings of the persons listed in section 105(2) about the arrangements referred to in paragraph (b) and the placement plan that have been ascertained and considered in accordance with section 105(2) and (3) and the

wishes and feelings of those persons in relation to any change, or proposed change, to the care plan.

Review of care plan.

5.(1) The Agency must keep the child's care plan under review in accordance with Part 6 and, if it is of the opinion that some change is required, it must revise the care plan or prepare a new care plan accordingly.

(2) Save as otherwise provided in these Regulations, the Agency must not make any significant change to the care plan unless the proposed change has first been considered at a review of the child's case.

(3) Subject to subregulation (4), the Agency must give a copy of the care plan to the—

- (a) child, unless it would not be appropriate to do so having regard to the child's age and understanding;
- (b) relevant person; and
- (c) person referred to in paragraph (c) of the definition of "appropriate person" in regulation 2(1).

(4) The Agency may decide not to give a copy of the care plan, or a full copy of the care plan, to the relevant person if to do so would put the child at risk of significant harm.

Health care.

6.(1) Before the child is first placed by them or, if that is not reasonably practicable, before the first review of the child's case, the Agency must make arrangements for a registered medical practitioner to—

- (a) carry out an assessment of the child's state of health; and
- (b) provide a written report of the assessment, addressing the matters specified in paragraph 1 of Schedule 1, as soon as reasonably practicable.

(2) Subregulation (1) does not apply if, within a period of three months immediately preceding the placement, an assessment of the child's state of health has been carried out and the Agency has obtained a written report that meets the requirements of that subregulation.

(3) The Agency must make arrangements for a registered medical practitioner or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner

to review the child's state of health and provide a written report of each review, addressing the matters specified in paragraph 1 of Schedule 1–

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

(4) Subregulations (1) and (3) do not apply if the child refuses consent to the assessment, being of sufficient age and understanding to do so.

(5) The Agency must take all reasonable steps to ensure that the child is provided with appropriate health care services, in accordance with the health plan, including–

- (a) medical and dental care and treatment; and
- (b) advice and guidance on health, personal care and health promotion issues.

Contact with a child in care.

7.(1) This regulation applies if the child is in the care of the Agency and the Agency has decided under section 68(6) to refuse to allow contact that would otherwise be required by virtue of section 68(1) or an order under section 68.

(2) The Agency must immediately give written notification to the following persons of the information specified in subregulation (3) (“the specified information”)–

- (a) the child, unless it would not be appropriate to do so having regard to the child's age and understanding;
- (b) the relevant person;
- (c) where, immediately before the care order was made, a person had care of the child by virtue of an order made in exercise of the Supreme Court's inherent jurisdiction with respect to children, that person; and
- (d) any other person whose wishes and feelings the Agency considers to be relevant.

(3) The specified information is–

- (a) the Agency's decision;
- (b) the date of the decision;

- (c) the reasons for the decision;
- (d) the duration of the decision (if applicable); and
- (e) remedies available in case of dissatisfaction.

(4) The Agency may depart from the terms of any order made under section 68 by agreement with the person in relation to whom the order is made, provided that—

- (a) the child, being of sufficient age and understanding, also agrees; and
- (b) written notification of the specified information is given within five working days to the persons listed in subregulation (2).

(5) Where the Agency has decided to vary or suspend any arrangements made (otherwise than under an order under section 68) with a view to affording any person contact with the child, the Agency must immediately give written notification containing the specified information to the persons listed in subregulation (2).

(6) The Agency must record any decision made under this regulation in the child's care plan.

PART 3

Placements – general provisions

Placement plan.

8.(1) Subject to subregulations (2) and (4), before making arrangements in accordance with regulation 23 for the child's placement, the Agency must—

- (a) prepare a plan for the placement ("placement plan") which—
 - (i) sets out how the placement will contribute to meeting the child's needs, and
 - (ii) includes all the matters specified in Schedule 2 as are applicable, having regard to the type of placement; and
- (b) ensure that the child's wishes and feelings have been ascertained and given due consideration.

(2) If it is not reasonably practicable to prepare the placement plan before making the placement, the placement plan must be prepared within five working days of the start of the placement.

(3) The placement plan must be agreed with, and signed by, the appropriate person.

(4) Where the arrangements for the child's placement were made before these Regulations came into operation, the Agency must prepare the placement plan as soon as reasonably practicable.

Avoidance of disruption in education.

9.(1) Subject to subregulations (2) and (3), if the child is a pupil at a school in the fourth key stage, a decision to make any change to the child's placement that would have the effect of disrupting the arrangements made for the child's education must not be put into effect until it has been approved by a nominated officer.

(2) Before approving a decision under subregulation (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 8(1)(b) have been complied with;
- (b) the educational provision made for the child at the placement will promote the child's educational achievement and is consistent with the child's personal education plan; and
- (c) the designated teacher at the school (if any) has been consulted.

(3) Subregulation (1) does not apply in any case where—

- (a) the Agency terminates the child's placement in accordance with regulation 11(3);
or
- (b) it is necessary for any other reason to change the child's placement in an emergency,

and in such a case the Agency must make appropriate arrangements to promote the child's educational achievement as soon as reasonably practicable.

(4) In any case not falling within subregulation (1), but where the Agency propose making any change to the child's placement that would have the effect of disrupting the arrangements made for the child's education or training, the Agency must ensure that other arrangements are made for the child's education or training that meet the child's needs and are consistent with the child's personal education plan.

(5) In this regulation, “school” has the meaning given in section 2(1) of the Education and Training Act.

Notification of placement.

10.(1) Subject to subregulation (3), the Agency must give written notification to the persons listed in subregulation (2) of the arrangements for the child’s placement before the placement is made or, if the placement is made in an emergency, within five working days of the start of the placement, unless it is not reasonably practicable to do so.

(2) The persons referred to in subregulation (1) are–

- (a) the child, unless it would not be appropriate to do so having regard to the child’s age and understanding;
- (b) the relevant person;
- (c) if the child is in the care of the Agency, any person who is allowed contact with the child under section 68(1) and any person who has contact with the child by virtue of an order under section 68;
- (d) if the child is looked after but is not in the care of the Agency, any person who has contact with the child pursuant to an order made under section 25;
- (e) any person who was caring for the child immediately before the arrangements were made;
- (f) the registered medical practitioner and, where applicable, the registered medical practitioner with whom the child is to be registered during the placement; and
- (g) any educational institution attended by, or person providing education or training for, the child.

(3) The Agency may decide not to give notification to any of the persons listed in paragraphs (b) to (e) of subregulation (2) if to do so would put the child at risk of significant harm.

Termination of placement by the Agency.

11.(1) Subject to subregulations (3) and (5), the Agency may only terminate the child’s placement following a review of the child’s case in accordance with Part 6.

(2) Subject to subregulations (3) and (4), before terminating the child’s placement, the Agency must–

- (a) make other arrangements for the child's accommodation, in accordance with regulation 23;
- (b) so far as is reasonably practicable, give written notification of their intention to terminate the placement to-
 - (i) all the persons to whom notification of the placement was given under regulation 10; and
 - (ii) the person with whom the child is placed.

(3) Where there is an immediate risk of significant harm to the child, or to protect others from serious injury, the Agency must terminate the child's placement, and in those circumstances—

- (a) subregulation (1) does not apply; and
- (b) they must comply with paragraphs (a) and (b) of subregulation (2) as soon as reasonably practicable.

(4) If it is not reasonably practicable to notify any person in accordance with paragraph (c) of subregulation (2), then the Agency must give written notification to the persons referred to in that subsection, within ten working days of the date on which the placement is terminated, of the fact that the placement has been terminated.

(5) This regulation does not apply where the child's placement is terminated under regulation 16(c), regulation 19(2) or regulation 21(6), nor where subregulations (8) and (9) of regulation 23 apply.

PART 4

Provision for different types of placement

Placement of a child in care with the relevant person.

12.(1) Regulations 13 to 17 apply if the child is in the care of the Agency and the Agency, acting in accordance with regulation 23(1), proposes to place the child with the relevant person.

(2) Nothing in regulations 13 to 17 require the Agency to remove the child from the relevant person's care if the child is living with the relevant person before a placement decision is made about the child.

Effect of contact order.

13. The Agency must not place the child with the relevant person if to do so would be incompatible with any order made by the court under section 68.

Assessment of relevant person's suitability to care for a child.

14. Before deciding to place the child with the relevant person, the Agency must–

- (a) assess the suitability of the relevant person to care for the child, including the suitability of–
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that the child will live;
- (b) take into account all the matters set out in Schedule 3 in making their assessment;
- (c) consider whether, in all the circumstances and taking into account the services to be provided by the Agency, the placement will safeguard and promote the child's welfare and meet the child's needs set out in the care plan; and
- (d) review the child's case in accordance with Part 6.

Decision to place a child with the relevant person.

15.(1) The decision to place the child with the relevant person must not be put into effect until it has been approved by a nominated officer, and the Agency has prepared a placement plan for the child.

(2) Before approving a decision under subregulation (1), the nominated officer must be satisfied that–

- (a) the requirements of regulation 8(1)(b) have been complied with;
- (b) the requirements of regulation 14 have been complied with; and
- (c) the placement will safeguard and promote the child's welfare.

Circumstances in which a child may be placed with the relevant person before assessment completed.

16. Where the nominated officer considers it to be necessary and consistent with the child's welfare, the Agency may place the child with the relevant person before their assessment under regulation 14 ("the assessment") is completed provided that they–

- (a) arrange for the relevant person to be interviewed in order to obtain as much of the information specified in Schedule 3 about the relevant person and the other persons living in the relevant person's household who are aged 18 and over as can be readily ascertained at that interview;
- (b) ensure that the assessment and the review of the child's case are completed in accordance with regulation 14 within ten working days of the child being placed with the relevant person; and
- (c) ensure that a decision in accordance with regulation 15 is made and approved within ten working days after the assessment is completed, and-
 - (i) if the decision is to confirm the placement, review the placement plan and, if appropriate amend it, and
 - (ii) if the decision is not to confirm the placement, terminate the placement.

Support for the relevant person.

17. Where the child is placed, or is to be placed, with the relevant person, the Agency must provide such services and support to the relevant person as appear to them to be necessary to safeguard and promote the child's welfare and must record details of such services and support in the child's care plan.

Conditions to be complied with before placing a child with an Agency foster carer.

18.(1) This regulation applies where the Agency proposes to place the child with a foster carer.

- (2) The Agency may only place the child with a foster carer if–
- (a) the foster carer is approved by the Agency;
 - (b) the terms of the foster carer's approval are consistent with the proposed placement; and
 - (c) the foster carer has entered into a foster care agreement with the Agency.

Emergency placement with an Agency foster carer.

19.(1) Where it is necessary to place the child in an emergency, the Agency may place the child with an Agency foster carer previously approved by it, even if the terms of that approval are not consistent with the placement but the placement must not be for longer than six working days.

(2) When the period of six working days referred to in subregulation (1) expires, the Agency must terminate the placement unless the terms of that person's approval have been amended to be consistent with the placement.

Temporary approval of relative, friend or other person connected with the child.

20.(1) Where the Agency is satisfied that—

- (a) the most appropriate placement for the child is with a connected person, notwithstanding that the connected person is not approved as an Agency foster carer; and
- (b) it is necessary for the child to be placed with the connected person before the connected person's suitability to be an Agency foster carer has been assessed,

it may approve that person as an Agency foster carer for a temporary period not exceeding 16 weeks ("temporary approval") but it must first comply with the requirements of subregulation (2).

(2) Before making a placement under subregulation (1), the Agency must—

- (a) assess the suitability of the connected person to care for the child, including the suitability of—
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that the child will live, taking into account all the matters set out in Schedule 4;
- (b) consider whether, in all the circumstances and taking into account the services to be provided by the Agency, the proposed arrangements will safeguard and promote the child's welfare and meet the child's needs set out in the care plan; and
- (c) make immediate arrangements for the suitability of the connected person to be an Agency foster parent to be assessed before the temporary approval expires.

(3) In this regulation “connected person” means a relative, friend or other person connected with the child.

Expiry of temporary approval.

21.(1) Subject to subregulation (4), the Agency may extend the temporary approval of a connected person if–

- (a) it is likely to expire before the full assessment process is completed; or
- (b) the connected person, having undergone the full assessment process, is not approved and seeks a review of the decision.

(2) In a case falling within subregulation (1)(a), the Agency may extend the temporary approval once for a further period of up to eight weeks.

(3) In a case falling within subregulation (1)(b), the Agency may extend the temporary approval until the outcome of the review is known.

(4) Before deciding whether to extend the temporary approval in the circumstances set out subregulation (1), the Agency must first consider whether placement with the connected person is still the most appropriate placement available.

(5) A decision to extend temporary approval must be approved by a nominated officer.

(6) If the period of temporary approval and of any extension to that period expires and the connected person has not been approved as an Agency foster carer, the Agency must terminate the placement after first making other arrangements for the child’s accommodation.

Fostering – discharge of the Agency’s functions.

22.(1) The Agency may make arrangements in accordance with this regulation for the duties imposed on it as the Agency by regulation 11(3) and regulation 18 to be discharged on its behalf by any suitably qualified person.

(2) No arrangements may be made under this regulation unless the Agency has entered into a written agreement with the suitably qualified person which includes the information set out in paragraph 1 of Schedule 5, and where the Agency proposes to make an arrangement under this regulation in relation to a particular child, the written agreement must also include the matters set out in paragraph 2 of Schedule 5.

(3) In this regulation, “suitably qualified person” means a person who is deemed by the Minister as fit and proper for the purpose.

Prescribed ways for accommodation and maintenance of the children looked after by the Agency and other arrangements, etc.

23.(1) Where the Agency is looking after a child, it may, for the purposes of section 107, make arrangements for the child to live with a person who—

- (a) is a parent of the child;
- (b) is not a parent of the child but has parental responsibility for the child; or
- (c) in a case where the child is in the care of the Agency and there was a residence order in force with respect to the child immediately before the care order was made, was a person in whose favour the residence order was made.

(2) But the Agency must not make any arrangement of the kind mentioned in subregulation (1) if doing so—

- (a) would not be reasonably practicable; or
- (b) would not be consistent with the child's welfare.

(3) If the Agency is unable to make arrangements under subregulation (1), it may place the child in the placement which is, in its opinion, the most appropriate placement available.

(4) In subregulation (3) "placement" means placement—

- (a) with an individual who is a relative, friend or other person connected with the child and who is also an Agency foster carer;
- (b) with an Agency foster carer who does not fall within paragraph (a);
- (c) in a community home; or
- (d) in accordance with other arrangements made under these Regulations.

(5) In determining the most appropriate placement for the child, the Agency must, subject to the other provisions of these Regulations—

- (a) give preference to a placement falling within paragraph (a) of subregulation (4) over placements falling within the other paragraphs of that subregulation; and

(b) comply, so far as is reasonably practicable in all the circumstances of the child's case, with the requirements of subregulation (6).

(6) The Agency must ensure that the placement is such that—

- (a) it does not disrupt the child's education or training;
- (b) if the child has a sibling for whom the Agency is also providing accommodation, it enables the child and the sibling to live together; and
- (c) if the child is disabled, the accommodation provided is suitable to his particular needs.

(7) The Agency may determine—

- (a) the terms of any arrangements it makes under subregulation (1) in relation to the child (including terms as to payment); and
- (b) the terms on which it places the child with an agency foster carer.

(8) Where the Agency is providing accommodation for a child other than by arrangements under subregulation (4)(d), it must not make such arrangements for the child unless it has decided to do so in consequence of a review of the child's case carried out in accordance Part 6 of these Regulations.

(9) But subregulation (8) does not prevent the Agency from making arrangements for the child under subregulation (4)(d) if it is satisfied that in order to safeguard the child's welfare it is necessary—

- (a) to make such arrangements; and
- (b) to do so as a matter of urgency.

(10) Before placing the child in accommodation in accordance with other arrangements made under subregulation (4)(d), the Agency must—

- (a) be satisfied that the accommodation is suitable for the child, having regard to the matters set out in Schedule 6; and
- (b) unless it is not reasonably practicable, arrange for the child to visit the accommodation.

PART 5*Visits by the Agency's representative etc.***Frequency of visits.**

24.(1) As part of its arrangements for supervising the child's welfare, the Agency must ensure that its representative visits the child in accordance with this regulation, wherever the child is living.

(2) Subject to subregulations (3) to (6), the Agency must ensure that representative visits the child—

- (a) within one week of the start of any placement;
- (b) at intervals of not more than six weeks for the first year of any placement; and
- (c) thereafter—
 - (i) where the placement is intended to last until the child is aged 18, at intervals of not more than three months,
 - (ii) and in any other case, at intervals of not more than six weeks.

(3) Where regulation 16 applies, the Agency must ensure that the representative visits the child—

- (a) at least once a week until the first review carried out in accordance with Part 6; and
- (b) thereafter at intervals of not more than six weeks.

(4) Where regulation 20 applies, or where an interim care order has been made in relation to the child under section 85 and the child is living with the relevant person, the Agency must ensure that the representative visits the child—

- (a) at least once a week until the first review carried out in accordance with Part 6; and
- (b) thereafter at intervals of not more than four weeks.

(5) Where a care order has been made in relation to the child under section 64 and the child is living with the relevant person, the Agency must ensure that the representative visits the child—

- (a) within one week of the making of the care order; and
- (b) thereafter at intervals of not more than six weeks.

(6) Where the child is in the care of the Agency but another person is responsible for the arrangements under which the child is living for the time being (“the child’s living arrangements”), the Agency must ensure that the representative visits the child—

- (a) within one week of the start of the child’s living arrangements and within one week of any change to the child’s living arrangements;
- (b) at intervals of not more than six weeks for the first year thereafter; and
- (c) at intervals of not more than three months in any subsequent year.

(7) In addition to visits in accordance with paragraphs (2) to (6), the Agency must ensure that the representative visits the child whenever reasonably requested to do so by—

- (a) the child;
- (b) where subregulations (2), (3) or (4) apply, the appropriate person; or
- (c) where subregulation (5) applies, the person responsible for the child’s living arrangements.

Conduct of visits.

25. On each visit, the representative must speak to the child in private unless—

- (a) the child, being of sufficient age and understanding to do so, refuses;
- (b) the representative considers it inappropriate to do so, having regard to the child’s age and understanding; or
- (c) the representative is unable to do so.

Consequences of visits.

26. Where, as the result of a visit carried out in accordance with this Part, the representative's assessment is that the child's welfare is not adequately safeguarded and promoted by the placement, the Agency must review the child's case in accordance with Part 6.

Advice, support and assistance for the child.

27. When making arrangements in accordance with the provisions of the Act for advice, support and assistance to the child, the Agency must ensure that-

- (a) the arrangements—
 - (i) are appropriate having regard to the child's age and understanding, and
 - (ii) give due consideration to the child's religious persuasion, racial origin, cultural and linguistic background and to any disability the child may have; and
- (b) so far as is reasonably practicable having regard to the child's age and understanding, the child knows how to seek appropriate advice, support and assistance from them.

PART 6

Review of the child's case

General duty of the Agency to review the child's case.

28.(1) The Agency must review the child's case in accordance with this Part.

(2) The Agency must not make any significant change to the child's care plan unless the proposed change has first been considered at a review of the child's case, unless this is not reasonably practicable.

(3) Nothing in this Part prevents any review of the child's case being carried out at the same time as any other review assessment or consideration of the child's case under any other provision.

Timing of reviews.

29.(1) The Agency must first review the child's case within 20 working days of the date on which the child becomes looked after by the Agency.

(2) The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months.

(3) The Agency must carry out a review before the time specified in subregulation (1) or (2) if–

- (a) regulation 26 applies; and
- (b) the child is looked after but is not in the care of the Agency and
 - (i) the Agency proposes to cease to provide accommodation for the child, and
 - (ii) accommodation will not subsequently be provided for the child by the child's parents (or one of them) or any person who is not the child's parent but who has parental responsibility for the child.

Conduct of reviews.

30.(1) The Agency must prepare and implement a written policy regarding the manner in which it will review cases in accordance with this Part.

(2) The Agency must provide a copy of its policy to–

- (a) the child, unless it would not be appropriate to do so having regard to the child's age and understanding;
- (b) the child's parent or parents, or any person who is not the child's parent but who has parental responsibility for the child; and
- (c) any other person whose views the Agency consider to be relevant.

Considerations to which the Agency must have regard.

31. The considerations to which the Agency must have regard in reviewing each case are set out in Schedule 7.

Arrangements for implementing decisions arising out of reviews.

32. The Agency must make arrangements to implement decisions made in the course, or as a result, of the review.

Records of reviews.

33. The Agency must ensure that a written record of the review is prepared, and that the information obtained in the course of the review, details of proceedings at the review meeting,

and any decisions made in the course, or as a result, of the review are included in the child's case record.

PART 7

Arrangements made by the Agency for ceasing to look after a child

Arrangements for ceasing to look after a child.

34. In any case where—

- (a) the child is not in the care of the Agency; and
- (b) the child's circumstances have changed such that the Agency is likely to cease to provide the child with accommodation,

the care plan must include details of the advice, assistance and support that the Agency intends to provide for the child when the child ceases to be looked after by it.

Personal adviser.

35.(1) The Agency may arrange for any child whom it looks after to have a personal adviser.

(2) A personal adviser arranged under subregulation (1), must—

- (a) provide advice (including practical advice) and support;
- (b) participate in reviews of the child's case carried out under Part 6;
- (c) liaise with the Agency in the implementation of the pathway plan;
- (d) co-ordinate the provision of services and take reasonable steps to ensure the child makes use of such services;
- (e) remain informed about the child progress and wellbeing; and
- (f) maintain a written record of their contacts with the child.

Assessment of needs.

36.(1) The Agency may complete an assessment of the child's needs in accordance with the Act not more than three months after the date on which the child reaches the age of 16.

(2) In carrying out the assessment of the child's likely needs when the child ceases to be looked after, the Agency must take account of the following considerations—

- (a) the child's state of health (including physical, emotional and mental health) and development;
- (b) the child's continuing need for education, training or employment;
- (c) the support that will be available to the child from the child's parents and other connected persons;
- (d) the child's actual and anticipated financial resources and capacity to manage personal finances independently;
- (e) the extent to which the child possesses the practical and other skills necessary for independent living;
- (f) the child's need for continuing care, support and accommodation;
- (g) the wishes and feelings of—
 - (i) the child,
 - (ii) any parent of the child and any person who is not the child's parent but who has parental responsibility for the child,
 - (iii) the appropriate person;
- (h) the views of—
 - (i) any person or educational institution that provides the child with education or training,
 - (ii) any person providing health (whether physical, emotional or mental health) or dental care or treatment to the child,
 - (iii) the personal adviser appointed for the child (if any), and
 - (iv) any other person whose views the Agency, or the child, consider may be relevant.

Pathway plan.

37.(1) A pathway plan may be prepared as soon as possible after the assessment of the child's needs and must include, in particular—

- (a) the child's care plan; and
- (b) the information referred to in Schedule 8.

(2) The pathway plan must, in relation to each of the matters referred to in paragraphs 2 to 10 of Schedule 8, set out—

- (a) the manner in which the Agency proposes to meet the child's needs; and
- (b) the date by which, and by whom, any action required to implement any aspect of the plan will be carried out.

PART 8

Miscellaneous

Application of these Regulations with modifications to short breaks.

38.(1) In the circumstances set out in subregulation (2) these Regulations apply with the modifications set out in subregulation (3).

(2) The circumstances are that—

- (a) the child is not in the care of the Agency;
- (b) the Agency have arranged to place the child in a series of short-term placements with the same person or in the same accommodation ("short breaks"); and
- (c) the arrangement is such that—
 - (i) no single placement is intended to last for longer than 17 days,
 - (ii) at the end of each such placement, the child returns to the care of the child's parent or a person who is not the child's parent but who has parental responsibility for the child, and
 - (iii) the short breaks do not exceed 75 days in total in any period of 12 months.

(3) The modifications are that—

- (a) regulations 4 and 8 do not apply, but instead the care plan must set out the arrangements made to meet the child's needs with particular regard to-
- (i) the child's health and emotional and behavioural development, in particular in relation to any disability the child may have,
 - (ii) promoting contact between the child and the child's parent or parents and any other person who is not the child's parent but who has parental responsibility for the child, during any period when the child is placed,
 - (iii) the child's leisure interests, and
 - (iv) promoting the child's educational achievement, and must include the name and address of the child's registered medical practitioner, and the information set out in paragraph 3 of Schedule 2, where appropriate;
- (b) regulations 6, 10 and 39(2)(b) do not apply,
- (c) regulation 24(2) does not apply, but instead the Agency must ensure that the representative visits the child on days when the child is in fact placed at regular intervals to be agreed with the child's parents (or any person who is not the child's parent but who has parental responsibility for the child) and recorded in the care plan before the start of the first placement, and in any event-
- (i) the first visit must take place within three months of the start of the first placement, or as soon as practicable thereafter, and
 - (ii) subsequent visits must take place at intervals of not more than six months, for as long as the short breaks continue;
- (d) regulation 29 does not apply, but instead-
- (i) the Agency must first review the child's case within three months of the start of the first placement, and
 - (ii) the second and subsequent reviews must be carried out at intervals of not more than six months.

Establishment of records.

39.(1) The Agency must establish and maintain a written case record for the child ("case record"), if one is not already in existence.

(2) The case record must include—

- (a) the child's care plan, including any changes made to the care plan and any subsequent plans;
- (b) reports obtained under regulation 6;
- (c) any other document created or considered as part of any assessment of the child's needs, or of any review of the child's case; and
- (d) any court order relating to the child.

Retention and confidentiality of records.

40.(1) The Agency must retain the child's case record either—

- (a) until the seventy-fifth anniversary of the child's birth; or
- (b) if the child dies before attaining the age of 18, for fifteen years beginning with the date of the child's death.

(2) The Agency must secure the safe keeping of the child's case record and take any necessary steps to ensure that information contained in it is treated as confidential subject only to—

- (a) any provision of, or made under or by virtue of, a statute under which access to such a record or information may be obtained or given;
- (b) any court order under which access to such a record or information may be obtained or given.

SCHEDULE 1

Regulation 4

Care plans

Information to be included in the health plan

- 1.(1) The child's state of health including the child's physical, emotional and mental health.
- (2) The child's health history including, so far as practicable, the child's family's health history.
- (3) The effect of the child's health and health history on the child's development.
- (4) Existing arrangements for the child's medical and dental care including—
 - (a) routine checks of the child's general state of health, including dental health;
 - (b) treatment for, and monitoring of, identified health (including physical, emotional and mental health) or dental care needs;
 - (c) preventive measures such as vaccination and immunization;
 - (d) screening for defects of vision or hearing; and
 - (e) advice and guidance on promoting health and effective personal care.
- (5) Any planned changes to existing arrangements.
- (6) The role of the appropriate person, and of any other person who cares for the child, in promoting the child's health.

Information to be included in the personal education plan

- 2.(1) The child's educational and training history, including information about educational institutions attended and the child's attendance and conduct record, the child's academic and other achievements, and the child's special educational needs, if any.
- (2) Existing arrangements for the child's education and training, including details of any special educational provision and any other provision made to meet the child's particular educational or training needs, and to promote the child's educational achievement.

(3) Any planned changes to existing arrangements for the child's education or training and, where any changes to the arrangements are necessary, provision made to minimise disruption to that education or training.

(4) The child's leisure interests.

(5) The role of the appropriate person, and of any other person who cares for the child, in promoting the child's educational achievements and leisure interests.

Family and social relationships.

3.(1) If the child has a sibling for whom the Agency is providing accommodation, and the children have not been placed together, the arrangements made to promote contact between them, so far as is consistent with the child's welfare.

(2) If the child is looked after by, but is not in the care of, the Agency, details of any order relating to the child made under section 25.

(3) If the child is in the care of the Agency, details of any order relating to the child made under section 68.

(4) Any other arrangements made to promote and maintain contact in accordance with section 116, so far as is reasonably practicable and consistent with the child's welfare, between the child and—

- (a) any parent of the child and any person who is not the child's parent but who has parental responsibility for the child; and
- (b) any other connected person.

SCHEDULE 2

Regulation 8

Matters to be dealt with in the placement plan**Information to be included in the child's placement plan.**

1.(1) How on a day to day basis the child will be cared for, and the child's welfare will be safeguarded and promoted by the appropriate person.

(2) Any arrangements made for contact between the child and any parent of the child and any person who is not the child's parent but who has parental responsibility for the child, and between the child and any other connected person including, if appropriate—

- (a) the reasons why contact with any such person would not be reasonably practicable or would not be consistent with the child's welfare;
- (b) if the child is not in the care of the Agency, details of any order made under section 25;
- (c) if the child is in the care of the Agency, details of any order relating to the child made under section 68;
- (d) the arrangements for notifying any changes in the arrangements for contact.

(3) The arrangements made for the child's health (including physical, emotional and mental health) and dental care including—

- (a) the name and address of the child's registered medical and dental practitioner and, where applicable, any registered medical or dental practitioner with whom the child is to be registered following the placement;
- (b) any arrangements for the giving or withholding of consent to medical or dental examination or treatment for the child.

(4) The arrangements made for the child's education and training including—

- (a) the name and address of any school at which the child is a registered pupil;
- (b) the name of the designated teacher at the school (if applicable);
- (c) the name and address of any other educational institution that the child attends, or of any other person who provides the child with education or training.

(5) The arrangements made for the representative to visit the child in accordance with Part 5, the frequency of visits and the arrangements made for advice, support and assistance to be available to the child between visits in accordance with regulation 27.

(6) If an independent visitor is appointed, the arrangements made for them to visit the child.

(7) The circumstances in which the placement may be terminated and the child removed from the appropriate person's care in accordance with regulation 11.

(8) The name and contact details of—

(a) the child's independent visitor (if one is appointed);

(b) the representative; and

(c) the personal adviser appointed for the child (if one is appointed).

Additional information to be included where the child is placed with the relevant person.

2.(1) Details of support and services to be provided to the relevant person during the placement.

(2) The obligation on the relevant person to notify the Agency of any relevant change in circumstances, including any intention to change address, any changes in the household in which the child lives, and of any serious incident involving the child.

(3) The obligation on the relevant person to ensure that any information relating to the child or the child's family or any other person given in confidence to the relevant person in connection with the placement is kept confidential, and that such information is not disclosed to any person without the consent of the Agency.

(4) The circumstances in which it is necessary to obtain the prior approval of the Agency for the child to live in a household other than the relevant person's household.

(5) The arrangements for requesting a change to the placement plan.

(6) The circumstances in which the placement will be terminated in accordance with regulation 16(c)(ii).

Additional information to be included where the child is placed with a foster carer or in accordance with other arrangements made under regulation 23(4)(d).

3.(1) The type of accommodation to be provided, the address and, where the child is placed in accordance with regulation 23(4)(d), the name of the person who will be responsible for the child at that accommodation on behalf of the Agency (if any).

(2) The child's personal history, religious persuasion, cultural and linguistic background, and racial origin.

(3) Where the child is not in the care of the Agency—

(a) the respective responsibilities of the Agency and the child's parents, or any person who is not the child's parent but who has parental responsibility for the child;

(b) any delegation of responsibility to the Agency for the child's day to day care there has been by the child's parents, or any person who is not the child's parent but who has parental responsibility for the child;

(c) the expected duration of the arrangements and the steps which should be taken to bring the arrangements to an end, including arrangements for the child to return to live with the child's parents, or any person who is not the child's parent but who has parental responsibility for the child; and

(d) where the child is aged 16 or over and agrees to being provided with accommodation under section 20, that fact.

(4) The circumstances in which it is necessary to obtain in advance the Agency's approval for the child to take part in school trips or to stay overnight away from the placement.

(5) The Agency's arrangements for the financial support of the child during the placement.

(6) Where the child is placed with a foster carer, the obligation on the foster carer to comply with the terms of the foster care agreement.

SCHEDULE 3

Regulations 14(b) and 16(a)

Matters to be taken into account when assessing the suitability of the relevant person to care for the child.

1. In respect of the relevant person—

- (a) the relevant person's capacity to care for children and in particular in relation to the child to-
 - (i) provide for the child's physical needs and appropriate medical and dental care,
 - (ii) protect the child adequately from harm or danger, including from any person who presents a risk of harm to the child,
 - (iii) ensure that the home environment is safe for the child,
 - (iv) ensure that the child's emotional needs are met and the child is provided with a positive sense of self, including any particular needs arising from the child's religious persuasion, racial origin and cultural and linguistic background, and any disability the child may have,
 - (v) promote the child's learning and intellectual development through encouragement, cognitive stimulation and the promotion of educational success and social opportunities,
 - (vi) enable the child to regulate the child's emotions and behaviour, including by modelling appropriate behaviour and interactions with others, and
 - (vii) provide a stable family environment to enable the child to develop and maintain secure attachments to the relevant person and other persons who provide care for the child,
- (b) his state of health including physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems,
- (c) his family relationships and the composition of his household, including particulars of—

- (i) the identity of all other members of the household, including their age and the nature of their relationship with the relevant person and with each other, including any sexual relationship,
 - (ii) any relationship with any person who is a parent of the child,
 - (iii) other adults not being members of the household who are likely to have regular contact with the child, and
 - (iv) any current or previous domestic violence between members of the household, including the relevant person,
- (d) his family history, including–
- (i) particulars of his childhood and upbringing including the strengths and difficulties of his parents or other persons who cared for him,
 - (ii) his relationships with his parents and siblings, and their relationship with each other,
 - (iii) his educational achievement and any specific learning difficulty or disability,
 - (iv) a chronology of significant life events, and
 - (v) particulars of other relatives and their relationships with the child and the relevant person,
- (e) particulars of any criminal offences of which the relevant person has been convicted or in respect of which the relevant person has been cautioned,
- (f) his past and present employment and other sources of income, and
- (g) the nature of the neighbourhood in which his home is situated and resources available in the community to support the child and him.

2. In respect of members of the relevant person's household aged 18 and over, so far as is practicable, all the particulars specified in paragraph 1 except sub-paragraphs (d), (f) and (g).

SCHEDULE 4

Regulation 20

Matters to be taken into account when assessing the suitability of a connected person to care for the child

1. In respect of the connected person—
 - (a) the nature and quality of any existing relationship with the child,
 - (b) their capacity to care for children and in particular in relation to the child to—
 - (i) provide for the child’s physical needs and appropriate medical and dental care,
 - (ii) protect the child adequately from harm or danger including from any person who presents a risk of harm to the child,
 - (iii) ensure that the accommodation and home environment is suitable with regard to the age and developmental stage of the child,
 - (iv) promote the child’s learning and development, and
 - (v) provide a stable family environment which will promote secure attachments for the child, including promoting positive contact with the relevant person and other connected persons, unless to do this is not consistent with the duty to safeguard and promote the child’s welfare,
 - (c) their state of health including their physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems,
 - (d) their family relationships and the composition of their household, including particulars of—
 - (i) the identity of all other members of the household, including their age and the nature of their relationship with the connected person and with each other, including any sexual relationship,
 - (ii) any relationship with any person who is a parent of the child,
 - (iii) any relationship between the child and other members of the household

- (iv) other adults not being members of the household who are likely to have regular contact with the child, and
 - (v) any current or previous domestic violence between members of the household, including the connected person,
- (e) their family history, including–
- (i) particulars of their childhood and upbringing including the strengths and difficulties of their parents or other persons who cared for them,
 - (ii) their relationships with their parents and siblings, and their relationships with each other,
 - (iii) their educational achievement and any specific learning difficulty or disability,
 - (iv) a chronology of significant life events, and
 - (v) particulars of other relatives and their relationships with the child and the connected person,
- (f) particulars of any criminal offences of which they have been convicted or in respect of which they have been cautioned,
- (g) their past and present employment and other sources of income, and
- (h) the nature of the neighbourhood in which their home is situated and resources available in the community to support the child and the connected person.

SCHEDULE 5

Regulation 22

Agreement with any suitably qualified person relating to the discharge of the Agency's functions

1. The agreement must contain the following information—
 - (a) the services to be provided to the Agency by the suitably qualified person;
 - (b) the arrangements for the selection by the Agency of the foster carer from those approved by the suitably qualified person;
 - (c) a requirement for the suitably qualified person to submit reports to the Agency on any placements as may be required by the Agency; and
 - (d) the arrangements for the termination of the agreement.

2. Where the agreement relates to a particular child, it must also contain the following information—
 - (a) foster carer's details;
 - (b) details of any services that the child is to receive and whether the services are to be provided by the Agency or by the suitably qualified person;
 - (c) the terms (including as to payment) of the proposed placement agreement;
 - (d) the arrangements for record keeping about the child and for the return of records at the end of the placement;
 - (e) a requirement for the suitably qualified person to notify the Agency immediately in the event of any concerns about the placement; and
 - (f) whether, and on what basis, other children may be placed with the foster carer.

SCHEDULE 6

Regulation 23

Matters to be considered before placing the child in accommodation under regulation 23(4)(d)

1. In respect of the accommodation, the—
 - (a) facilities and services provided;
 - (b) state of repair;
 - (c) safety;
 - (d) location;
 - (e) support;
 - (f) tenancy status; and
 - (g) the financial commitments involved for the child and their affordability.

2. In respect of the child, the child's—
 - (a) views about the accommodation;
 - (b) understanding of their rights and responsibilities in relation to the accommodation;
and
 - (c) understanding of funding arrangements.

SCHEDULE 7

Regulation 31

Considerations to which the Agency must have regard when reviewing the child's case

1. The effect of any change in the child circumstances since the last review, in particular of any change made by the Agency to the child's care plan, whether decisions taken at the last review have been successfully implemented, and if not, the reasons for that.
2. Whether the Agency should seek any change in the child's legal status.
3. Whether there is a plan for permanence for the child.
4. The arrangements for contact and whether there is any need for changes to the arrangements in order to promote contact between the child and the relevant person, or between the child and other connected persons.
5. Whether the child's placement continues to be the most appropriate available, and whether any change to the placement agreement or any other aspects of the arrangements made to provide the child with accommodation is, or is likely to become, necessary or desirable before the next review of the child's case.
6. The child's educational needs, progress and development and whether any change to the arrangements for the child's education or training is, or is likely to become, necessary or desirable to meet the child's particular needs and to promote the child's educational achievement before the next review of the child's case, having regard to the advice of any person who provides the child with education or training, in particular the designated teacher (if any) of any school at which the child is a registered pupil.
7. The child's leisure interests.
8. The report of the most recent assessment of the child's state of health obtained in accordance with regulation 7 and whether any change to the arrangements for the child's health care is, or is likely to become, necessary or desirable before the next review of the child's case, having regard to the advice of any health care professional received since the date of that report, in particular the child's registered medical practitioner.
9. Whether the child's needs related to the child's identity are being met and whether any particular change is required, having regard to the child's religious persuasion, racial origin and cultural background.

10. Whether the arrangements made in accordance with regulation 27 continue to be appropriate and understood by the child.
11. Whether any arrangements need to be made for the time when the child will no longer be looked after by the Agency.
12. The child's wishes and feelings about any aspect of the case and in particular about any changes the Agency has made since the last review or proposes to make to the child's care plan.
13. Where regulation 24(3) applies, the frequency of the representative's visits.

SCHEDULE 8

Regulation 37

Matters to be dealt with in the pathway plan

1. The name of the child's personal adviser (if one is appointed).
2. The nature and level of contact and personal support to be provided to the child, and by whom.
3. Details of the accommodation the child is to occupy when the child ceases to be looked after.
4. The plan for the child's continuing education or training when the ceases to be looked after.
5. How the Agency will assist the child in obtaining employment or other purposeful activity or occupation.
6. The support to be provided to enable the child to develop and sustain appropriate family and social relationships.
7. A programme to develop the practical and other skills the child needs to live independently.
8. The financial support to be provided to enable the child to meet accommodation and maintenance costs.
9. The child's health care needs, including any physical, emotional or mental health needs and how they are to be met when the child ceases to be looked after.
10. The Agency's contingency plans for action to be taken in the event that the pathway plan ceases to be effective for any reason.