



# National Minimum Standards for Private Fostering

**Every Child Matters**

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# General Introduction

This document contains the National Minimum Standards for Private Fostering which came into force on 18 July 2005, and the Children (Private Arrangements for Fostering) Regulations 2005.

## **DEFINITION OF A PRIVATE FOSTERING ARRANGEMENT**

A private fostering arrangement is essentially one that is made privately (that is to say without the involvement of a local authority) for the care of a child under the age of 16 (under 18, if disabled) by someone other than a parent or close relative with the intention that it should last for 28 days or more. Private foster carers may be from the extended family such as a cousin or great aunt. However, a person who is a relative under the Children Act 1989 i.e. a grandparent, brother, sister, uncle or aunt (whether of full blood or half blood or by marriage) or step-parent will not be a private foster carer. A private foster carer may be a friend of the family, the parent of a friend of the child, or someone previously unknown to the child's family who is willing to privately foster a child. The period for which the child is cared for and accommodated by the private foster carer should be continuous, but that continuity is not broken by the occasional short break. Exemptions to this definition are set out in Schedule 8 to the Children Act 1989.

The private foster carer becomes responsible for providing the day to day care of the child in a way which will promote and safeguard his welfare. Overarching responsibility for

safeguarding and promoting the welfare of the privately fostered child remains with the parent or other person with parental responsibility.

### **REGULATORY CONTEXT**

The 2005 regulations are made under the Children Act 1989. The National Minimum Standards are issued under section 7 of the Local Authority Social Services Act 1970, which requires local authorities in their social services functions to act under the general guidance of the Secretary of State. As such the National Minimum Standards do not have the full force of statute, but should be complied with unless local circumstances indicate exceptional reasons which justify a variation.

### **IMPACT ON LOCAL AUTHORITIES**

The NMS specify a minimum standard for local authority practice in the fulfilment of Children Act duties and functions in relation to private fostering. They, along with the new measures in section 44 of the Children Act 2004 and the 2005 regulations, are intended to better focus local authorities' attention on private fostering, in part by requiring them to take a more proactive approach to identifying arrangements in their area.

The Commission for Social Care Inspection (CSCI) will consider and consult on how it can most effectively contribute to ensuring that these standards are met. The approach taken seeks to minimise the impact on local authorities, while enabling effective assessment of whether the standards are being implemented in a way which ensures that the welfare of privately fostered children is safeguarded and promoted.

### **THE ROLE OF THE COMMISSION FOR SOCIAL CARE INSPECTION**

CSCI is the independent inspectorate for social care services in England. The primary function of CSCI is to promote improvement in social care. CSCI has a specific duty to safeguard and promote the rights and welfare of children. In making judgements, CSCI focuses on the experience and outcomes of children and young people. CSCI seeks also to recognise and promote good practice above these National Minimum Standards.

CSCI views the way in which a local authority discharges its duties and functions in relation to private fostering within the context of the performance assessment of local councils' social services. CSCI inspections are used as a platform to facilitate improvement.

### **FURTHER INFORMATION**

The National Minimum Standards and 2005 regulations are the responsibility of the Secretary of State for Education and Skills. The Commission will advise on the application of the standards and regulations in particular circumstances. Other queries – for example about the policies behind the standards and regulations- can be addressed to the Department for Education and Skills.



# National Minimum Standards for Private Fostering

## INTRODUCTION

The National Minimum Standards for private fostering are issued by the Secretary of State for Education and Skills under section 7 of the Local Authority Social Services Act 1970. The Secretary of State keeps such standards under review and may publish amended standards as appropriate.

These standards apply to Local Authorities. They are minimum standards, rather than 'best possible' practice. Many local authorities will exceed the National Minimum Standards in a range of ways. It is hoped that they will focus local authorities' attention on private fostering and lead to improvements in the way in which they carry out their duties and functions in relation to private fostering.

## STRUCTURE AND APPROACH

The standards are grouped under a series of key topics:

- Statement on private fostering
- Notification
- Safeguarding and promoting welfare
- Advice and support
- Monitoring compliance

Each standard or group of standards is preceded by a statement of the outcome to be achieved by the local authority. The standards are intended to be qualitative, but they are also designed to be measurable.

In inspecting against these standards, CSCI will follow a proportionate inspection methodology, which enables consistent judgements to be made and reported across the country. Practice which exceeds the requirements of the standards will also be identified, recognised and reported through inspection reports.

It is intended that the standards will be used by local authorities and by the Commission, to focus on securing positive outcomes for privately fostered children and young people, and reducing any risks to their welfare and safety. Observing the standards is an essential part, but only a part, of the local authority's overall responsibility to safeguard and promote the welfare of each privately fostered child.



# Statement on Private Fostering (Standard 1)

## **OUTCOME**

Relevant staff are aware of local authority duties and functions in relation to private fostering.

## **STANDARD 1**

**1.1** The local authority has a written statement or plan, which sets out its duties and functions in relation to private fostering and the ways in which they will be carried out.

## **SUPPORTING CRITERIA**

**1.2** The statement or plan includes:

- the legal definition of a privately fostered child and a list of examples;
- the local authority's duties and functions under the Children Act 1989 and the Children (Private Arrangements for Fostering) Regulations 2005, and how they will operate in relation to privately fostered children;
- how relevant staff will be trained to ensure they have appropriate understanding and expertise in relation to private fostering;

- the name of a person within the local authority with expertise in private fostering, whom social workers can contact for advice;
  - the name of the manager(s) who will sign-off decisions about the overall suitability of an arrangement;
  - how awareness of the notification requirements will be promoted with other agencies and within the wider local community;
  - how the local authority will determine the suitability of all aspects of a private fostering arrangement in accordance with the regulations;
  - how the local authority will satisfy itself that the welfare of privately fostered children in their area is satisfactorily safeguarded and promoted;
  - the advice and support that will be available to private foster carers (including prospective private foster carers), parents and others with parental responsibility, and others concerned with the privately fostered child;
  - the information and support that will be available to privately fostered children;
  - any training that may be available to private foster carers (including prospective private foster carers); and
  - the role of other agencies in assisting the local authority to carry out its duty under section 67(1) of the Children Act 1989, in particular through notifying the authority of an arrangement where they are not satisfied that the local authority have been, or will be, notified of that arrangement.
- 1.3** All relevant staff have an appropriate understanding of the local authority's duties and functions in relation to private fostering.
- 1.4** The local authority ensures that its duties and functions in relation to private fostering are included in induction and other training programmes. The programmes are annually reviewed in line with changes in legislation and/or guidance and regularly evaluated by staff and managers.





# Notification (Standard 2)

## **OUTCOME**

The local authority is notified about privately fostered children living in its area.

## **STANDARD 2**

### **2.1 The local authority:**

- 2.1.1** promotes awareness of the notification requirements and ensures that those professionals who may come into contact with privately fostered children understand their role in notification;
- 2.1.2** responds effectively to notifications; and
- 2.1.3** deals with situations where an arrangement comes to their attention, which has not been notified.

## **SUPPORTING CRITERIA**

### **2.2 Promoting Awareness**

- 2.2.1** The local authority has a programme of communication activities, including for the public, local authority staff and other agencies, and a range of up to date publicity materials which includes the legal definition of a privately fostered child with

examples, the notification requirements and the procedure for notifying, and the benefits of notification and possible consequences of non-notification.

**2.2.2** The publicity materials identify who to contact in the local authority for information about notification or about other aspects of private fostering. The publicity materials are available in an appropriate range of languages and formats, which are accessible to different groups of private foster carers, parents and communities.

**2.2.3** The local authority provides targeted and current information to those who may come into contact with privately fostered children, including teachers, health visitors, nurses, doctors, housing officers and community workers, about their role in assisting the local authority to carry out its duty under section 67(1) of the Children Act 1989, including through notifying the local authority of an arrangement where they are not satisfied that the local authority have been, or will be, notified of that arrangement.

### **2.3 Responding to Notifications**

**2.3.1** The local authority takes appropriate action on receipt of a notification, and carries out subsequent visits, in accordance with the regulations.

**2.3.2** The local authority handles disqualifications effectively.

**2.3.3** The local authority has in place and implements effectively a policy and agreed process for prohibiting private fostering arrangements and for imposing requirements where appropriate.

**2.3.4** Where the local authority is not satisfied that the welfare of a privately fostered child is being, or will be, satisfactorily safeguarded or promoted, it takes reasonable steps to secure that the child is looked after by a parent or relative of his, or someone else with parental responsibility for him (unless this would not be in the best interests of the child); and considers the extent to which (if at all) it should exercise any of its functions under the Children Act 1989 with respect to the child.

**2.3.5** The local authority handles effectively appeals against relevant decisions, including to refuse to consent to a disqualified person privately fostering a child and to impose a prohibition or a requirement.

### **2.4 Responding to Unnotified Arrangements**

**2.4.1** The local authority deals effectively with situations where a private fostering arrangement has come to their attention but has not been notified in accordance with the regulations, and ensures that an appropriate decision is taken where it appears that an offence has been committed, bearing in mind the best interests of the individual child.



# Safeguarding and Promoting Welfare (Standard 3)

## **OUTCOME**

The welfare of privately fostered children is safeguarded and promoted.

## **STANDARD 3**

**3.1** The local authority determines effectively the suitability of all aspects of the private fostering arrangement in accordance with the regulations.

## **SUPPORTING CRITERIA**

**3.2** The local authority establishes:

**3.2.1** that the intended duration of a private fostering arrangement is understood and agreed between the parent and the private foster carer;

**3.2.2** the ascertainable wishes and feelings of the child about the proposed/actual private fostering arrangement;

**3.2.3** that the child's physical, intellectual, emotional, social and behavioural development is appropriate and satisfactory (once the private fostering arrangement has begun);

- 3.2.4 that the child's needs arising from his religious persuasion, racial origin and cultural and linguistic background are being met (once the private fostering arrangement has begun);
- 3.2.5 that financial arrangements for the care and maintenance of the child have been agreed between the parents and private foster carer and that, once the private fostering arrangement has begun, these arrangements are working;
- 3.2.6 the capacity of the proposed/actual private foster carer to look after the child, and the suitability of members of their household and premises (including whether the private foster carer or anyone in the household is disqualified from privately fostering children);
- 3.2.7 that consideration has been given, and necessary steps taken to make arrangements for the care of the child's health; and that, once the private fostering arrangement has begun, these arrangements are in place and, in particular, that the child is included on a GP's list;
- 3.2.8 that consideration has been given, and necessary steps taken to make arrangements for the child's education; and that, once the private fostering arrangement has begun, these arrangements are in place;
- 3.2.9 the standard of care provided for each privately fostered child;
- 3.2.10 whether the contact arrangements have been agreed and understood, and will be/are satisfactory for the child;
- 3.2.11 how decisions about the child's day to day care will be/are being taken;
- 3.3 The local authority assesses the capacity of the proposed or actual private foster carer to look after the child and the suitability of household members, and determines whether the child who is, or is proposed to be, privately fostered poses any risk of harm to children already living in the private foster carer's household, and whether those children pose a risk of harm to him, using the dimensions and domains in the *Framework for the Assessment of Children in Need and their Families* (2000).
- 3.4 Decisions about the overall suitability of arrangements are made within required timescales, and signed-off at managerial level.
- 3.5 Where the local authority has concerns that the child may not be achieving a satisfactory level of health or development without the provision of services, an assessment is undertaken under section 17 of the Children Act 1989, in accordance with the *Framework for the Assessment of Children in Need and their Families* (2000).



# Advice and Support (Standards 4–6)

## **OUTCOME**

Private foster carers and parents of privately fostered children receive advice and support to assist them to meet the needs of privately fostered children; privately fostered children are able to access information and support when required so that their welfare is safeguarded and promoted.

## **Advice and Support for Private Foster Carers**

### **STANDARD 4**

**4.1** The local authority provides such advice and support to private foster carers and prospective private foster carers as appears to the authority to be needed.

### **SUPPORTING CRITERIA**

**4.2** Private foster carers and prospective private foster carers are enabled to obtain information about entitlement to child and other financial benefits, and any necessary advice and support which will assist them to safeguard and promote the welfare of the privately fostered child.

- 4.3 Private foster carers and prospective private foster carers are provided with information, in different languages and formats as appropriate, on the advice and support that is available from other agencies, including health services, education, housing services, youth support services, voluntary organisations and community groups.
- 4.4 Private foster carers are encouraged, and where necessary supported, to promote and facilitate regular contact between the child and his parents, siblings, extended family and other significant persons, where this will promote the child's welfare.
- 4.5 Where appropriate, the private foster carer is given advice about the child's needs arising from religious persuasion, racial origin and cultural and linguistic background.
- 4.6 Where appropriate, the private foster carer is given advice to enhance his/her ability to care effectively for the child, including in relation to sex, age, disability, medical condition and learning disabilities, and the opportunity to utilise any training or support services that may be available.
- 4.7 Private foster carers are provided with the contact details of the social worker who will be visiting them and the child they are privately fostering, and whom they can contact at any time if they have any concerns about the welfare of the child or if they wish to request a visit.

## **Advice and Support for Parents of Privately Fostered Children**

### **STANDARD 5**

- 5.1 **The local authority provides advice and support to the parents of children who are privately fostered within their area as appears to the authority to be needed.**

### **SUPPORTING CRITERIA**

- 5.2 The local authority in each case considers whether in the light of the particular circumstances, the direct provision of services or referral to another agency would remove the necessity for the parent to have the child privately fostered and, where feasible and in the child's best interests and with the parents' consent, provides such services or makes such a referral.
- 5.3 Parents are provided with information, in different languages and formats as appropriate, on the advice and support that may be available from the authority itself and from other agencies.
- 5.4 Parents who have placed a child with a private foster carer are encouraged to maintain regular contact with their child and the private foster carer.
- 5.5 Parents are provided with advice and support to make alternative arrangements for the care of their child, where a private fostering arrangement has been prohibited and no other is contemplated.

- 5.6** Parents are provided with the contact details of an allocated social worker who they can contact if they have any concerns about the welfare of the privately fostered child or if they wish to request a visit.

## **Information and Support for Privately Fostered Children**

### **STANDARD 6**

- 6.1** Children who are privately fostered are able to access information and support when required so that their welfare is safeguarded and promoted. Privately fostered children are enabled to participate in decisions about their lives.

### **SUPPORTING CRITERIA**

- 6.2** Privately fostered children are provided with information, in formats appropriate to their age and level of understanding, about their private foster carer and his responsibilities, the meaning of their privately fostered status, and their right to be safeguarded.
- 6.3** Privately fostered children are provided with the contact details of the social worker who will be visiting them while they are privately fostered, and whom they can contact at any time if they have any concerns about their care or if they wish to request a visit.
- 6.4** Privately fostered children are given information about advocacy services, if they are assessed as being a child in need.
- 6.5** The local authority automatically provides, in an appropriate format, to every disabled privately fostered child nearing age 18 details of its procedure for assessing eligibility for adult community care services, so that these assessments can take place in a timely manner.
- 6.6** The local authority provides information in appropriate formats about its arrangements for providing advice and assistance to privately fostered children who would be “qualifying” children as defined by Section 24(2)(e) of the Children Act 1989.



# Monitoring Compliance with Duties and Functions (Standard 7) in relation to Private Fostering

## OUTCOME

The local authority monitors the way in which it discharges its duties and functions in relation to private fostering.

## STANDARD 7

**7.1** The local authority has in place and implements effectively a system for monitoring the way in which it discharges its duties and functions in relation to private fostering. It improves practice where this is indicated as necessary by the monitoring system.

## SUPPORTING CRITERIA

**7.2** Accurate, comprehensive, well-organised and confidential records are kept for each privately fostered child and each private foster carer. These cover:

- all the matters to which the local authority has to satisfy itself in carrying out its functions under the Children Act 1989 and the 2005 regulations;
- any disqualifications, and any prohibitions or requirements imposed on private foster carers;
- decisions about offences and whether to consent or refuse to consent to a disqualified person privately fostering a child;



- any advice and support given to parents and/or carers; and
  - any information and support given to children.
- 7.3** The records contain the written reports required by the regulations. These reports include the conclusions drawn, whether the child was seen alone and, where appropriate, the reasons why the officer considered it inappropriate to see the child alone; and the child's wishes and feelings about the arrangement. They comment on the child's welfare and whether the placement is satisfactory, and include any comments about these matters made by the child or the carer. Any matter for concern is highlighted.
- 7.4** Records are kept and monitored about the numbers of privately fostered children and private foster carers living in the local authority's area.
- 7.5** New notifications are recorded on the statistical data return PFI, and submitted to the Department for Education and Skills, as required.
- 7.6** There is a system for recording the number and nature of enquiries received in relation to private fostering, the responses given and any action taken.
- 7.7** The local authority regularly reviews a sample of individual child and private foster carer records in order to check such matters as: compliance with required timescales for action to be taken on receipt of a notification, decisions about the overall suitability of arrangements and subsequent visits; that additional visits are made if reasonably requested by private foster carers, privately fostered children or their parents; that children are seen alone, unless it is considered inappropriate (and with an independent interpreter where the child's preferred language is English); that written reports are made in accordance with the regulations; that decisions about the suitability of arrangements are signed-off at managerial level; that any concerns raised by privately fostered children are addressed; and the satisfactory operation of all its procedures, and the effectiveness of its actions, in relation to private fostering.
- 7.8** The local authority investigates any pattern of concern raised by privately fostered children; and takes action to improve practice in the interests of safeguarding and promoting the welfare of privately fostered children where this is indicated as necessary by monitoring information.
- 7.9** The local authority provides a written report each year, for consideration by the Director of Children's Services, which includes an evaluation of the outcomes of its work in relation to privately fostered children within its area.
- 7.10** The local authority reports annually to the Chair of the Area Child Protection Committee (or its successor body, the Local Safeguarding Children Board) on how it satisfies itself that the welfare of privately fostered children in its area is satisfactorily safeguarded and promoted, including how it co-operates with other agencies in this connection.

# Annex A

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## STATUTORY INSTRUMENTS

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**2005 No. 1533**

### **CHILDREN AND YOUNG PERSONS, ENGLAND**

#### **SOCIAL CARE, ENGLAND**

##### **The Children (Private Arrangements for Fostering) Regulations 2005**

*Made* - - - - - *9<sup>th</sup> June 2005*

*Laid before Parliament* *10<sup>th</sup> June 2005*

*Coming into force* - - - *1st July 2005*

The Secretary of State, in exercise of the powers conferred on her by sections 67(2), (2A) and (6) and 104(4) of, and paragraph 7 of Schedule 8 to, the Children Act 1989<sup>(1)</sup>, hereby makes the following Regulations—

##### **Citation, commencement and application**

1.—(1) These Regulations may be cited as the Children (Private Arrangements for Fostering) Regulations 2005 and shall come into force on 1st July 2005.

(2) These Regulations apply to England only.

##### **Interpretation**

2. In these Regulations—

“the Act” means the Children Act 1989;

“appropriate local authority” means—

(i) the local authority within whose area the child is being fostered privately; or

(ii) in the case of a proposal to foster a child privately, the local authority within whose area it is proposed that he will be fostered privately;

“private foster carer” means a person who fosters a child privately; and

“working day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971<sup>(2)</sup>.

##### **Notification of proposal to foster a child privately**

3.—(1) A person who proposes to foster a child privately must notify the appropriate local authority of the proposal—

(a) at least six weeks before the private fostering arrangement is to begin; or

(b) where the private fostering arrangement is to begin within six weeks, immediately.

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<sup>(1)</sup> 1989 c.41; section 67 was amended by the Children Act 2004 (c. 31), section 44.

<sup>(2)</sup> 1971 c.80.

(2) Any person who is involved (whether or not directly) in arranging for a child to be fostered privately must notify the appropriate local authority of the arrangement as soon as possible after the arrangement has been made.

(3) A parent of a child, and a person who is not a parent of his but who has parental responsibility for a child, who is not involved (whether or not directly) in arranging for the child to be fostered privately but who knows that it is proposed that the child should be fostered privately must notify the appropriate local authority of the proposal as soon as possible after he becomes aware of the arrangement.

(4) Notification given under paragraphs (1) to (3) must contain such of the information specified in Schedule 1 as the person giving the notification is able to provide.

#### **Action to be taken by local authority on receipt of notification of proposal to foster a child privately**

4.—(1) Where a local authority have received notification under regulation 3 they must, for the purposes of discharging their duty under section 67(1) of the Act (welfare of privately fostered children), arrange for an officer of the authority within seven working days to—

- (a) visit the premises where it is proposed that the child will be cared for and accommodated;
- (b) visit and speak to the proposed private foster carer and to all members of his household;
- (c) visit and speak to the child, alone unless the officer considers it inappropriate;
- (d) speak to and, if it is practicable to do so, visit every parent of or person with parental responsibility for the child; and
- (e) establish such matters listed in Schedule 2 as appear to the officer to be relevant.

(2) Having completed his functions under paragraph (1) the officer must make a written report to the local authority.

#### **Notification by person already fostering a child privately**

5.—(1) A person who is fostering a child privately and has not given notification to the appropriate local authority in accordance with regulation 3 must notify the appropriate local authority immediately.

(2) Notification given under paragraph (1) must contain such of the information specified in Schedule 1 as the person giving the notification is able to provide.

#### **Notification of a child going to live with private foster carer**

6.—(1) A person who has given notification under regulation 3(1) must, within 48 hours of the start of the arrangement, notify the appropriate local authority of the fact.

(2) A parent of a child, and any other person who has parental responsibility for the child, who has given notification under regulation 3(2) or 3(3) must within 48 hours of the child's going to live with a private foster carer, notify the appropriate local authority of the fact.

#### **Action to be taken by local authority on receipt of notification about a child being fostered privately**

7.—(1) Where a local authority have received a notification under regulation 5 or 6 they must for the purposes of discharging their functions under section 67(1) of the Act, arrange for an officer of the authority within seven working days to—

- (a) visit the premises where the child is being cared for and accommodated;
- (b) visit and speak to the private foster carer and to all members of his household;
- (c) visit and speak to the child, alone unless the officer considers it inappropriate;
- (d) speak to and, if it is practicable to do so, visit every parent of or person with parental responsibility for the child; and

- (e) establish such matters listed in Schedule 3 as appear to the officer to be relevant.
- (2) Having completed his functions under paragraph (1) the officer must make a written report to the local authority.

#### **Subsequent visits to children who are being fostered privately**

**8.—**(1) Each local authority must arrange for an officer of the authority to visit every child who is being fostered privately in their area—

- (a) in the first year of the private fostering arrangement, at intervals of not more than six weeks; and
  - (b) in any second or subsequent year, at intervals of not more than 12 weeks.
- (2) In addition to visits carried out in accordance with paragraph (1) the local authority must arrange for every child who is fostered privately in their area to be visited by an officer when reasonably requested to do so by the child, the private foster carer, a parent of the child or any other person with parental responsibility for the child.
- (3) When carrying out a visit under this regulation the officer must speak to the child alone unless he considers it inappropriate.
- (4) When carrying out a visit under this regulation the officer must establish such matters listed in Schedule 3 as appear to him to be relevant.
- (5) The officer must make a written report to the local authority after each visit carried out in accordance with this regulation.
- (6) For the purposes of this regulation, the private fostering arrangement is deemed to begin when the local authority become aware of it.

#### **Notification of change of circumstances**

- 9.—**(1) A private foster carer must notify the appropriate local authority of—
- (a) any change of his address;
  - (b) any further offence of which he or a person who is part of or employed at his household has been convicted;
  - (c) any further disqualification imposed on him or a person who is part of or employed at his household under section 68 of the Act;
  - (d) any person who begins to be part of or employed at his household, and any offence of which that person has been convicted, and any disqualification or prohibition imposed on him under section 68 or 69 of the Act or under any previous enactment of either of those sections; and
  - (e) any person who ceases to be part of or employed at his household.
- (2) A notification under paragraph (1) must be given—
- (a) in advance if practicable;
  - (b) in any other case, not more than 48 hours after the change of circumstances.
- (3) If the private foster carer's new address is in the area of another local authority, or of a local authority in Scotland, Wales or Northern Ireland, the authority to whom the notification is given under this regulation must pass on to the authority for the area—
- (a) the name and new address of the private foster carer;
  - (b) the name of the child who is being fostered privately; and
  - (c) the name and address of the child's parents or any other person who has parental responsibility for him.
- (4) The parent of a privately fostered child, and any other person who has parental responsibility for the child, who knows that the child is being fostered privately, must notify the appropriate local authority of any change of his own address.

### **Notification of the end of a private fostering arrangement**

10.—(1) Subject to paragraphs (2) and (3), any person who has been fostering a child privately but has ceased to do so must notify the appropriate local authority within 48 hours and must include in the notification the name and address of the person into whose care the child was received and that person's relationship with the child.

(2) Where a person has been fostering a child privately but has ceased to do so because of the death of the child he must in his notification to the local authority indicate that that is the reason.

(3) Paragraph (1) shall not apply where the private foster carer intends to resume the private fostering arrangement after an interval of not more than 27 days but if—

- (a) he subsequently abandons his intention; or
- (b) the interval expires without his having given effect to his intention,

he must notify the local authority within 48 hours of abandoning his intention or, as the case may be, the expiry of the interval.

(4) Any parent of a privately fostered child, and any other person who has parental responsibility for a child, who has given notification to the local authority under regulation 3(2) or (3) must notify the appropriate local authority of the ending of the private fostering arrangement and must include in the notification the name and address of the person into whose care the child was received and that person's relationship with the child.

### **Form of notification**

11. Any notification required under these Regulations must be given in writing and may be sent by post.

### **Monitoring the discharge of functions under Part 9 of the Act**

12. Each local authority must monitor the way in which they discharge their functions under Part 9 of the Act and must appoint an officer of the authority for that purpose.

### **Revocation and transitional provision**

13. The Children (Private Arrangements for Fostering) Regulations 1991(3) in so far as they apply to England are revoked, save that any notification given under those Regulations before the coming into force of these Regulations shall be treated as if it had been given under these Regulations.

Signed by the Secretary of State for Education and Skills

9<sup>th</sup> June 2005

Maria Eagle  
Parliamentary Under Secretary of State  
Department for Education and Skills

## **SCHEDULE 1**

Regulations 3 and 5

### **Information to be provided in Notification**

1. The information referred to in regulations 3(4) and 5(2) is—

- (a) the name, sex, date and place of birth, religious persuasion, racial origin and cultural and linguistic background of the child;
- (b) the name and current address of the person giving the notice and his addresses within the previous five years;

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(3) S.I. 1991/2050, as amended in relation to England by S.I. 2004/865.

- (c) the name and current address of the proposed or current private foster carer and his addresses within the previous five years;
  - (d) the name and current address of the parents of the child and of any other person who has parental responsibility for the child and (if different) of any person from whom the child is to be, or was, received;
  - (e) the name and current address of the minor siblings of the child, and details of the arrangements for their care;
  - (f) the name and current address of any person, other than a person specified in subparagraph (d), who is or was involved (whether or not directly) in arranging for the child to be fostered privately;
  - (g) the date on which it is intended that the private fostering arrangement will start, or on which it did start; and
  - (h) the intended duration of the private fostering arrangement.
2. In the case of a person giving notice under regulation 3(1) or 5(1) the information referred to in regulations 3(4) and 5(2) also includes—
- (a) any offence of which he has been convicted;
  - (b) any disqualification or prohibition imposed on him under section 68 or 69 of the Act or under any previous enactment of either of those sections;
  - (c) any such conviction, disqualification or prohibition imposed on any other person living in or employed at the same household;
  - (d) any order of a kind specified in regulations under section 68 of the Act made at any time with respect to him;
  - (e) any order of a kind specified in regulations under section 68 of the Act made at any time with respect to a child who has been in his care; and
  - (f) any rights or power with respect to a child that have been at any time vested in an authority specified in regulations under section 68 of the Act under an enactment specified in those regulations.

## SCHEDULE 2

Regulation 4

### Welfare of children who are to be fostered privately

3. The matters referred to in regulation 4(1)(e) are—
- (a) that the intended duration of the arrangement is understood by and agreed between—
    - (i) the parents of the child or any other person with parental responsibility for the child; and
    - (ii) the proposed private foster carer;
  - (b) the wishes and feelings of the child about the proposed arrangement (considered in the light of his age and understanding);
  - (c) the suitability of the proposed accommodation;
  - (d) the capacity of the proposed private foster carer to look after the child;
  - (e) the suitability of other members of the proposed private foster carer's household;
  - (f) that arrangements for contact between the child and his parents, any other person with parental responsibility for him, and other persons who are significant to him, have been agreed and understood and that those arrangements will be satisfactory for the child;
  - (g) that the parents of the child or any other person with parental responsibility for him and the proposed private foster carer have agreed financial arrangements for the care and maintenance of the child;

- (h) that consideration has been given to, and necessary steps taken to make arrangements for, care of the child's health;
- (i) that consideration has been given to, and necessary steps taken to make arrangements for, the child's education;
- (j) how decisions about the care of the child will be taken; and
- (k) whether the proposed private foster carer, the parents of the child, any other person with parental responsibility for the child, or any other person concerned with the child are being given such advice as seems to the authority to be needed.

### SCHEDULE 3

Regulations 7 and 8

#### Welfare of children who are fostered privately

4. The matters referred to in regulations 7(1)(e) and 8(4) are—
- (a) that the intended duration of the fostering arrangement is understood and agreed between—
    - (i) the parents of the child or any other person with parental responsibility for the child; and
    - (ii) the private foster carer;
  - (b) the wishes and feelings of the child about the arrangement (considered in the light of his age and understanding);
  - (c) that the child's physical, intellectual, emotional, social and behavioural development is appropriate and satisfactory;
  - (d) that the child's needs arising from his religious persuasion, racial origin, and cultural and linguistic background are being met;
  - (e) that the financial arrangements for the care and maintenance of the child are working;
  - (f) the capacity of the private foster carer to look after the child;
  - (g) the suitability of the accommodation;
  - (h) that the arrangements for care of the child's health are in place and, in particular, that the child is included on the list of a person who provides primary medical services pursuant to Part 1 of the National Health Service Act 1977(4);
  - (i) the arrangements for the child's education;
  - (j) the standard of the care which the child is being given;
  - (k) the suitability of members of the private foster carer's household;
  - (l) whether the contact between the child and his parents, or any other person with whom contact has been arranged, is satisfactory for the child;
  - (m) how decisions about the child's care are being taken; and
  - (n) whether the private foster carer, the parents of the child, any other person with parental responsibility for the child, or any other person concerned with the child are being given such advice as appears to the authority to be needed.

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(4) 1977 c.49; section 16CC (inserted by section 174 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43) imposes a duty on primary care trusts to provide or secure provision of primary medical services.

## **EXPLANATORY NOTE**

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

These Regulations revoke and replace the Children (Private Arrangements for Fostering) Regulations 1991 in relation to England, following amendments to the private fostering notification scheme made by section 44 of the Children Act 2004.

Regulation 3 requires any person proposing to foster a child privately, any person involved (whether directly or not) in arranging for the child to be fostered privately, and a parent of the child or other person with parental responsibility for the child who knows that it is proposed to foster the children privately, to notify the appropriate local authority in advance of the arrangement starting. Notification by the proposed private foster carer has to be given at least six weeks before the private fostering arrangement is to begin, or where the arrangement is to begin within six weeks then immediately. Others required to give notification under regulation 3 must do so as soon as possible after the arrangement has been made, or as soon as possible after they become aware of the arrangement.

The notification should contain such of the information set out in Schedule 1 as the person giving the notification is able to provide.

Having received a notification the local authority then have to arrange for an officer of the authority to visit the place where the child will live and speak to the proposed private foster carer, members of his household, the child and others (regulation 4) and establish such matters as are listed in Schedule 2 as appear relevant to the officer. The officer then has to make a written report to the authority.

Regulation 5 sets out the requirement to notify the local authority of the arrangement where notification under regulation 3 has not been given. Regulation 6 sets out the requirement to notify the local authority when a private fostering arrangement of which they have been notified under regulation 3 actually starts. Having received notification under either regulation 5 or 6, the local authority must arrange for an officer to carry out visits and establish such matters listed in Schedule 3 as appear to him to be relevant (regulation 7).

Regulation 8 is concerned with local authority visits to the child once the private fostering arrangement has started. It provides for when the visits should take place and what the officer of the authority should do when carrying out a visit. After each visit he is required to make a written report to the local authority.

Private foster carers are required to notify the local authority of certain changes in circumstances, such as a change of address or when someone leaves or joins their household. If the private foster carer moves to the area of another local authority then certain information is required to be passed to the local authority for the new area by the local authority for the old. The parent of a privately fostered child, or other person with parental responsibility for the child, who knows that the child is being fostered privately must notify the local authority of a change of their address (regulation 9).

Regulation 10 is concerned with notification of the end of the arrangement. A person who has been fostering privately a child must notify the local authority within 48 hours of him ceasing to foster the child privately, and if the reason for the ending of the arrangement is that the child has died then he must tell the local authority that that is the reason.

All notifications given under these Regulations must be in writing (regulation 11).

Regulation 12 requires local authorities to monitor the way in which they discharge their functions in respect of privately fostered children and to appoint an officer of the local authority for that purpose.



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