**Regulations Governing Fostering Services, Children’s Homes Providers and Adoption and Fostering Panels and Statutory Guidance on Children’s Homes and Fostering**

Introduction

This consultation ran between 27 August and 19 November 2010 and a total of 136 responses were received. A list of respondents is at Annex A (excluding those who asked for their response to remain confidential). A number of respondents included responses informed through their own stakeholder events and working groups for example events to gain the views of looked after children. Tables which breakdown responses to the question are provided at Annex B.

The organisational breakdown of respondents was as follows:

Local Authority 54

Fostering 24

Adoption 21

Other\* 15

Other professional 9

Professional Body/Association 8

Children's Residential Care 4

Birth parent/family: 1

*\*Those which fell into the ‘other’ category included third sector organisations, Government Departments and individuals.*

This document 1) provides an overview of responses; 2) summarises the responses to individual questions; 3) provides a sample of quotes from respondents and 4) sets out the intended next steps for the programme.

# Question 1 a: Are there areas where we could take out further detail out of the regulations and if so, could you specify what these are? **There were 72 responses to this question**

Yes 13 (18%) No 51 (71%) Not Sure 8 (11%)

# ****Question 1 b: Please set out what implications this could have for practice?****

1. This question related to the regulations for children’s homes and fostering services and asked whether further details could be removed from the regulations and what the implications might be for practice. The majority of people 71% felt there were no areas where further detail could be removed from the regulations. This included the majority of local authorities and the major organisations representing the sector.
2. Comments in favour of the revised proposed regulations striking the right balance between prescription and allowing for professional flexibility included;

*‘The objective to streamline the regulations and remove any unnecessary bureaucracy has been achieved. There is greater clarity and less unhelpful prescription’. (Third Sector Organisation)*

*‘Prescriptive detail has been appropriately removed. Where this remains in place clearly concerns safeguarding issues. Fostering Service is given flexibility to deliver required services in the way it considers appropriate to achieve desired outcomes. What must be done is very clear.’ (LA)*

*‘The level of detail seems broadly appropriate. It gives an indication of the Government's intentions without being overly prescriptive. They set a baseline for minimum levels of organisation and standards.’(LA)*

*‘They are clear and the changes have been made to take into account up-to-date legislation and policies.’ (LA)*

Respondents felt it was important to keep a level of prescription in order to safeguard children’s welfare and clarify what all of the services and providers must do. Comments included;

*‘It is a mistake to remove too much detail; regulations are an important aspect of the overall regime for safeguarding children, as noted in successive reports from Sir William Utting in the 1990s to Lord Laming's more recently.’ (Professional)  
  
‘Excessive deregulation would risk creating a "postcode lottery" of differing standards across the country, which would be bad for children and for foster carers.’ (Professional)*

*‘There may be confusion in practice if any more information is removed.’(LA)*

*‘There should be sufficient detail in the Regulations so that non-professionals, i.e. foster carers, parents and young people can understand what their fostering service provider “must do” (Fostering organisation)*

*‘There is a clear need to have specific regulations to maintain the standards currently in place. We welcome the clarity regarding the role of Foster carers and their inclusion in relation to care planning and reviewing processes. We are concerned the differing agencies could reduce the standards if they were too flexible.’ (LA)*

1. Few suggestions were made for where further detail could be removed from the regulations. Where comments were made they tended to focus on which specific regulations they felt were important to keep.
2. However, there were a few suggestions for where additional detail might be removed in the fostering regulations and these related to assessment, panels, employment of foster carers and household members by the fostering service. Comments and the Government response are below;

*‘Regarding regulation 21 (Fitness of workers), it is preferable that this should be further amended to lift the effective ban/limitations placed upon a Fostering Service Provider from employing members of the household of one of it's approved foster carers. It is recognised that occasionally there could be potential for conflict of interest, but this could be safely managed through risk assessment by the FSP. The current regulation and proposed revision both seem unnecessarily discriminatory to foster carers' household members’ (fostering organisation)*

*‘Overall we do not think there is further detail that could be taken out. However, we do feel that the section on employment of foster carers is too prescriptive and needs to be reviewed.’ (Third Sector Organisation)*

1. The Fostering Services Regulations 2002 state that a foster carer or a member of their household must not work in a management or social work capacity at all and can only undertake work in a professional position if it is carried out occasionally as a volunteer or for no more than 5 hours in any week. This was added to the regulations to address issues around the perception of bias or potential bias, and any possible conflict of interest where foster carers and household members could have inappropriate influence over decisions such as the approval of foster carers.
2. The new regulation we consulted on sought to capture the types of role that foster carers and household members can very successfully undertake in order to improve their fostering service and which need not be limited to 5 hours a week such as mentoring. However, the regulation was felt to be overly prescriptive in not capturing all possible activity and possibly being discriminatory to household members and foster carers. Given the difficulty in providing an exhaustive list of roles in regulations and the possibly of unintended consequences we have now removed the provision so that foster carers and household members are not barred from undertaking work for the fostering service. We would expect a fostering service to be mindful of possible conflict of interest and any negative impact on foster children in the same way as any employer would need to be mindful of conflict of interest in their own organisation. The importance of this has also been emphasised in the revised guidance which make clear that providers need to be mindful of potential conflict of interest e.g. where the person has access to records or may be in a position to sway a placement or approval decision.We hope that this helps some of the good practice to continue and fostering services can make full use of the talents, skills and experiences of their foster carers and members of the fostering household.

*‘Is the 1st foster carer annual review going back to panel necessary? Logically if the 2nd and subsequent reviews can be done outside panel then so can the 1st review’ (professional organisation).*

1. We considered carefully the above comment but feel it is important to retain this provision for the following reason. The first review going back to panel is in order to evaluate the appropriateness of the original approval and terms. It could be seen as akin to many jobs where there is a probationary period. With new foster carers in particular it can be difficult to ascertain how they will take to the fostering task. Were it not for this provision there would be no requirement for any independent element of reviewing foster carers. It also offers a useful source of feedback to the panel which helps the panel perform its quality assurance role. Were it not for this the panel may only receive feedback when things go wrong.

*‘Schedule 6 of the Fostering Services Regulations is too prescriptive (especially 2, 8,9, 13, 15) and seeks a service provider to keep the same information for what could be 100 foster carers and 150 children that you would expect a manager of a children’s home for 5 children to keep – e.g. what medication each child has received. The obligation on the fostering service provider should be to ensure that their foster carers keep that information in the home. This point illustrates that consistency between children’s home regulations and fostering service regulations is not always appropriate.’ (Professional organisation).*

1. We have reviewed this provision in light of the comments above. It should be noted that as was the case under the Fostering Services Regulations 2002 the provision continues to only apply to independent fostering providers and not local authority fostering services. In addition Regulation 35 ‘Review of quality of care’ requires the registered person i.e. the registered provider or manager of the fostering agency to have a system for monitoring and improving quality, and reporting to Ofsted, including the matters set out in schedule 6. This does not mean reporting every detail about every carer. It is about the person accountable for the agency being able to spot trends and where things may need to change to improve the quality of care. That is why it covers matters such as complaints, accidents, allegations, death of a child in foster care as it is important that the registered person understands what is happening in the service they provide. Of course, the supervising social worker will be key in monitoring what individual foster carers do. We agree that one of the items does appear more akin to Children’s Homes regulations and have therefore removed the requirement to monitor ‘duty rosters of persons working for the fostering agency, as arranged and as actually worked.’  
     
   *Regulations 26 of the fostering Services Regulations may have unintended consequences – by saying “must” assess as a foster carer if they apply and if they may be suitable – takes away the fostering agency discretion to not follow up an application if they have sufficient numbers of foster carers or sufficient numbers of carers for the age range that person may be offering – e.g. baby carers. (Professional organisation).*

*‘The right to IRM for temporary approvals will potentially be extremely costly to local authorities in times of severe cuts to budgets. LA's should have the right not to approve applicants without fear of financial penalty. (LA)*

1. Regulation 26 changed the word ‘shall’ in the Fostering Services Regulations 2002 to ‘must’ but either word means the same thing for the purposes of the regulations. We agree that fostering services should not be required to assess people as foster carers if they do not need the foster carers. Many providers already do this by differentiating between an enquiry and an application and do not give application forms to people they do not need as foster carers rather they give information at enquiry stage saying what they do/ do not need. The new regulations allow the provider discretion about whether to assess someone as a foster carer or not. Where they do wish to assess someone as a foster carer the assessment must be carried out in accordance with the fostering services regulations.
2. With regards, the comment on temporary approval the following clarification should be helpful. Temporary approval for a connected person is provided in regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010. A local authority can temporarily approve someone provided that local authority carries out certain checks and makes immediate arrangements for the person to go through the proper assessment process under the fostering services regulations. The right to go to the IRM is not triggered if a person is not temporarily approved. However, they do, like any other foster carer, have the right to go to the IRM if, following the temporary approval, they go through the full approval process under the fostering services regulations and the provider decides not to approve them. In these circumstances they are entitled to apply to the IRM like any other care.

# ****Question 2 a: Are you content with the structure of the guidance?****

# **There were 82 responses to this question**

Yes 67 (82%) No 5 (6%) Not Sure 10 (12%)

1. The majority of respondents (82%) were content with the structure of the guidance with very few (5%) answering no. Comments from those who indicated they were content included the following statements;

*‘We have had the opportunity to contribute to this review via working groups and feel that overall the review has provided greater clarity and the relationship of regulation, standards and guidance is clear. For example, the alignment with the Care planning, Placement and Case Review Regulations 2010 and the regulation relating to Short Break Care. The diagram in Annex A is very helpful and provides a coherent framework of operation.’ (Third Sector Organisation)*

*‘The structure of the guidance in relation to Children’s Homes is generally well presented and specific areas subjects easy to locate. Reference to specific LAC Guidance is useful. It maybe useful to include specific LAC Guidance as an appendix so it easy to access . The guidance cross references well with the Regulations. Equally, the structure in relation to Fostering is well presented, and cross referencing to the Care Planning, Placement and Case Review Regulations is helpful.’ (LA)*

*‘Reads well, reader friendly, logical and clear, concise and focussed.’ (LA)*

*‘Easy to understand. The different headings are easy to follow and will support the Head of Home to meet the Regulations.’ (LA)*

*‘Yes. The guidance is generally seen to be well written and clear.’ (Fostering Organisation)*

*‘Much more user friendly, clear and accessible’. (LA)*

*‘Overall structure is helpful. The regulations needed reviewing as the changes within the fostering sector have been significant over the past 8 years’ (Fostering Organisation)*

*‘We welcome the guidance and found the structure helpful. (Fostering Organisation)*

*‘The structure of the guidance is clear and easy to follow. It links clearly with the Regulations to which it applies’ (Fostering Organisation)*

*‘It is simplified and easy to check against the previous guidance and regs’ (LA)*

*‘On balance the revised guidance appears well structured and clear. We welcome the clearer focus on the child /young person at the heart of these volumes’ (Other)*

1. Respondents also made some comments for where possible improvements could be made to the structure including making the revised NMS available. In response to this the post consultation NMS were made available prior to the consultation closing and we recognise it is important to have all the regulations and accompanying guidance and NMS available for implementation in April 2011.
2. Others suggestions for improvement include providing the Secure Children’s Homes Regulations and the Children’s Homes Regulations as amended (as opposed to the amendment regulations) with the guidance. This has been taken forward on the post consultation version of the children’s homes guidance.
3. A couple of comments relating to numbering or drafting changes and these have been incorporated in the post consultation versions. The following specific suggestions were made to move the following sections of the fostering guidance and these have been incorporated into the post consultation revision;

*‘2.58 (identity cards) – move to section on approval of foster carers. 3.17 (agency decision maker) – to emphasise the separation of decision making function, this should be a separate section.3.35, 3.37 (approval of foster carers) – move to section on fostering panels’ (Fostering Organisation).’*

1. Some respondents felt all the guidance should be in one document for example friends and family, leaving care, and care planning while others felt that relevant sections of guidance and legislation should be summarised in the guidance. Conversely others felt there was too much repetition of material elsewhere, for example too much repetition of the NMS.
2. Given the comments overall we feel the balance between flagging other relevant materials and not duplicating too much information is appropriate. We have though made further attempts in the post consultation guidance to cut down repetition of the NMS. We will also make sure related documents are clearly flagged on the Department for Education website.

# ****Question 2 b: Are you content with the overall tone and level of detail within the guidance?****

# **There were 82 responses to this question**

Yes 61 (74%) No 13 (16%) Not Sure 8 (10%)

1. **The majority of respondents (74%) indicated that they were content with the overall tone and level of detail in the guidance. Comments included;**

*‘I sincerely congratulate the author(s) on conveying a real tone of acknowledgment and appreciation of the difficult task of providing and running residential children's homes, and delivering the guide in such a way as to treat the reader as a mature, sophisticated expert in their field who should be enabled to 'get on with the task'; a refreshing change form the patronising and dismissive tone we have endured for the past 12 years! I find the level of detail within the guidance to be appropriate and effective.’ (*Children’s Home Provider,*)*

*‘It will be helpful for less experienced social workers. It should be familiar to more experienced family placement workers as many current good practice principles are enshrined in the Guidance. It will also be helpful in enabling Local Authorities to update their procedural handbooks (paper or on-line)’. (LA)*

*‘The tone is satisfactory. There is sufficient detail without aspects being open to interpretation. The guidance is easier to understand’ (*LA*)*

*‘The Guidance is very clear on the functioning of the children’s home.’ (LA)*

*‘The language is clear and in the main avoids jargon.’ (Provider)*

*‘We believe that the statutory guidance could be more detailed in some areas. While it summarises the legislation and regulations neatly, it could include more practical guidance and examples.’ (Other)*

‘*Residential children’s Homes Guidance -the guidance is more child focused and less prescriptive, allowing more flexibility while ensuring safeguarding measures are robust. There is a more measured approach to risk assessment which is helpful. The language throughout is clear and helpful’. (*LA*)*

1. **Most respondents welcomed the more positive tone to the guidance particularly in relation to the important role which residential care and foster care can play in children’s lives. In relation to children’s homes a few respondents mentioned areas where they felt the guidance could be even more positive about residential care as the placement of choice for some children. Comments include;**

*‘The Guidance sometimes seems a little unrealistic about the reality of children’s residential care. Most residents today are difficult, older adolescents, many of whom are at significant risk (girls especially). The tone of the guidance is sometimes too focused on listening to children, involving families, facilitating contact with friends etc. These are all important but the reality is that these relationships are not straightforward, need careful management and might need to be discouraged. The tone of the Guidance often doesn’t get across how challenging and vulnerable residents can be. It has a rather ‘post-Pindown’ flavour still. There might also be an issue about language now as homes are occupied mainly by ‘young people’ not ‘children’. (professional)*

*‘The tone misses an opportunity to look at how positive the experience of residential child care can be for children and young people. The current tone is relatively gloomy with a heavy focus on risk and vulnerability. For example, the comment under 2.111 that despite all the risks “some children do well” is really grudging! Yes, it is challenging work but many people do it with expertise, skill and considerable passion. Detail – as noted, there is an under-focus on disabled children. We was hoping that, following work undertaken by the Department in March 2009, the guidance relating to secure practices in non-secure settings would be considerably clearer. Providers really do need the Department to do further work in this area as many are falling foul of current regulations simply by acting responsibility in keeping children safe’. (Provider organisation)*

*‘In terms of tone, while we welcome the emphasis on the important role children’s home can play in providing children and young people with the care they need, we are concerned about the, sometimes, negative comments concerning residential child care.’(Third Sector organisation)*

1. **The Government believes that children’s homes can provide excellent care for children and young people and we have carefully considered these comments in the post consultation revisions of the children’s homes guidance.**
2. **A couple of respondents felt that the guidance was not prescriptive enough and was ‘t**oo open to interpretation.’ That said most respondents who commented that they were not content with the overall tone or detail made comments about adding detail to specific parts of the guidance rather than the guidance as a whole. Respondents made helpful points about the links between the guidance and best practice and there was a general recognition that the guidance strikes the right balance and the update is needed.

‘The guidance contains much less detail than the current Volume 4 (1991) Guidance for Residential Care and it is recognised that this was in need of an update to reflect new guidance and new standards. The consequence of the much streamlined version is that it has lost some of the impact regarding development and good practise…The previous guidance was seen as being very helpful to providers in achieving and maintaining national minimum standards. When the final version of Volume 4 is implemented, a focus on achieving better outcomes for children in Residential Care will hopefully be supported with the re- introduction of Focus Groups in developing and supporting Good Practise in residential child care following the excellent delivery from NCERCC and supplementing that of the CWDC. The DfE recent announcement regarding working in partnership with providers on this delivery of support is warmly welcomed. therefore the content to this guidance is seen as generally been well received . For Fostering, the updating of Volume 3 Guidance is welcomed and the level of detail is not excessive, but gives sufficient steer to ensure standards of practice are upheld.’ (LA)

1. Examples of areas where people sought more clarity or detail in the guidance include; parent and child arrangements which have been further expanded in the revised guidance to clarify these arrangements and panel membership (see questions 9-14 on panels).
2. Generally as the responses indicated the level of detail and overall tone were right and there was not a broad consensus for further detail to be added on other specific areas we have sought not to include further detail in the guidance.
3. A few organisations made really helpful suggestions for improving the clarity in areas of the guidance or redrafting particular sections of the guidance. We are grateful for these comments and they inform the post consultation versions of the children’s homes and fostering guidance.

# ****Question 2 c: are there areas of detail that you would like removed, and if so, what are these?****

# **There were 71 responses to this question**

Yes 19 (27%) No 41 (58%) Not Sure 11 (15%)

1. **Over half of respondents (58%) felt there are not further areas where detail could be removed from the guidance.**
2. **Respondents made a variety of suggestions for removing some aspects of detail and making changes to improve the guidance. No suggestions were made for removing wholesale sections of the guidance.**
3. **A number of specific suggestions were made for where detail could helpfully be removed from the children’s homes guidance. For example Paragraph 3.6 on commissioning, duplication between 2.132 and.2.133, cutting down paragraph 2.34. These and the other suggestions made have been taken into account in redrafting the post consultation guidance to eliminate as much duplication as possible.**

# ****Question 2 d: Are there important areas that we have omitted in the guidance, and if so, what are these?****

# **There were 74 responses to this question**

Yes 38 (51%) No 23 (31%) Not Sure 13 (18%)

1. **Just over half of all respondents (51%) said that there were important areas omitted from the guidance.**
2. The main themes for fostering and Government response are described below.
3. **People asked how the usual fostering limit interacts with the Care Standards Act 2000 requirement to register as a children’s home and foster carer terms of approval. This is explained in the revised guidance paragraphs.**
4. A number of people raised concerns about arrangements where parent/s and their child/ren live with foster carers for the purposes of assessment activity. Comments included

*We are also concerned about the lack of regulation surrounding placements of adult parents and their children in fostering placements as part of an assessment of their parenting capacity. (Third Sector Organisation)*  
  
*Parent & child placements are increasingly being offered in foster homes for parents who are under and over 18yrs old. Fostering Service providers would welcome clearer guidance from DfE about how these placements should be managed within existing legislation. (LA)*

*There is still a huge grey area around the status of parent-child placements in to foster carers and the different circumstances in which these can occur (Professional)*

*Parent/Child Need statutory guidance and expectations regarding competencies required of foster carers. This is a complex area that needs more work to ensure an appropriate framework is provided, but it is important it is not left ambivalent. There are also practical problems at the moment regarding the carer insurance, CRB’s and adult parents in household. (Fostering Organisation )*

*Parent and Child Placements remain somewhat hazy in relation to regulations - e.g the parent is often a vulnerable adult rather then a child - we all need to be clear about what regulations apply. Foster carers often have to do the task required without the full information on child/young person parent and child e.g emergency situations or when the LA simply has not supplied the information. (Fostering Organisation )*

*There is no reference to the placements of a parent together with a child. This placement provision can presently fall outside the fostering regulatory framework where the parent is over 18 years or either the child or parent is accommodated or under a care order. We recognises that this is a growing area of practice within the fostering arena which must be addressed within a regulatory framework (Third Sector Organisation )*

1. The Government understands that this is an area of concern and we will be working with the sector to explore how we can work with organisations and providers on this issue. In addition, we intend to make a number of changes to the regulations and the statutory guidance to help address concerns in the short term.
2. The new Fostering Services Regulations define parent and child arrangements as an ‘arrangement for a parent and their child to live with a foster parent, whether or not the parent or the child is placed with the foster parent’. This addition both acknowledges the existence of parent and child arrangements and makes clear that it will not always be the case that both the parent and their child are ‘placed’ with the foster parent by the local authority (given that they may not both be ‘looked after’ by the local authority). The fostering services statement of purpose now needs to include any parent and child arrangements provided by the fostering service. This means that Ofsted, commissioners and service users understand where a fostering service is providing parent and child arrangements. New Regulations state that the fostering service provider must prepare and implement a written policy which is intended to safeguard children placed with foster parents from abuse or neglect and this must now include a statement of measures to be taken to safeguard children placed with foster parents before making parent and child arrangements with the foster parents.
3. Issues around the any assessment activity undertaken in the fostering household are beyond the scope of the new fostering Services Regulations and it is not possible to regulate an arrangement where a child/parent is not “placed” with a foster carer beyond that which we have already set out. Guidance could cover assessment activity and the Government will discussing with the sector whether it is appropriate to give further guidance about assessment arrangements and the matters that local authorities should take into account when making such arrangements.
4. It is the Government’s view that a parent and child arrangement with a foster carer does not mean that the foster carers home becomes a residential family centre (RFC) because an RFC is first defined as an ‘establishment’ and a fostering household is not an establishment. The guidance now includes an Annex as part of the statutory guidance that clarifies how parent and child arrangements are covered by the fostering services regulations.
5. **The other key issue raised in relation to fostering guidance is assessment of people who are not the foster carers for example a foster carer’s relative who the foster child may spend a weeks holiday with. The guidance clarifies that there is no legal requirement to assess such people as foster carers before the foster child stays with them. The guidance also updates the local authority circular 2004(4) which dealt with overnight stays and expands it to cover short stays/holidays.**
6. **In relation to the children’s homes guidance, the main area where respondents requested more clarification about behaviour management and restraint and revised guidance now includes more information on this important topic.**
7. **Respondents also asked for clarification about the appropriate involvement of children’s homes providers in developing Personal Educational Plans for looked after children; and also about the responsibility of children’s homes providers for avoiding unnecessary police involvement in managing children’s behaviour. Additional information on these points has been included in revised guidance.**

# ****Question 3: Are you content with our proposal to remove the requirement for the registered person to provide, when so requested by children and their parents, a copy of a report in respect of any review conducted in line with regulation 34 (1) of the Children's Homes Regulations and regulation 35 (1)(a) of the Fostering Services Regulations.****

# **There were 67 responses to this question**

Yes 59 (88%) No 4 (6%) Not Sure 4 (6%)

1. **The majority of respondents (88%) agreed with the proposals put forward. The Information Commissioner made the following comments;**

*‘The proposal for the removal of the requirement in the regulations to provide a copy of the report to children and parents is therefore one we consider reasonable – strictly provided that any rights foster carers, parents and children have under the Data Protection Act (DPA) and Freedom of Information Act (FOIA) are able to be properly exercised, for example in the form of:*

* *Subject access requests for personal data under the DPA.*
* *Freedom of information requests under the FOIA for information other than the personal data of the applicant.*
* *The use of publication schemes for the routine publication of inspection reports, policies and procedures (for example complaints procedures).*

*Provided the above rights are able to be exercised, the proposal should still enable foster carers, parents and children to obtain access to information relevant to the child’s care – without any unnecessary intrusion into the private lives of other children.’*

1. **Other comments in favour of the proposals included**

*‘Yes – as noted, these reviews reports have the potential to contain a large amount of confidential personal material on a wide range of sensitive issues, and it is not appropriate to give a general right of access to them. The rights of access under DPA and FoIA, and under other parts of the Regulations are sufficient.’ (Third Sector Organisation)*

*‘[Barnardo's] recognises that it is more appropriate that requests from private individuals such as children and their parents should be subject to the provisions of the Data Protection Act 1998 and where appropriate, the Freedom of Information Act.’ (Third Sector Organisation)*

*‘This appears to be a sensible step to cut down the potential for inappropriate reports to have to be provided, especially in the case of vexatious requests. Suitable routes are available to share such information if it is appropriate to do so.’ (LA)*

*‘We agree that it is inappropriate for such reports to be made available to children and their parents as they may contain confidential information from which it is possible to identify individuals.’ (Third Sector Organisation)*

1. **Other comments included that**;

*‘if this affects the parents direct in relation to their child then they should be able to access information, if removal from the regulations clear statements need to be made regarding FOI processes.’ (LA)*

*‘Parents and other with PR are entitled to this information’ (Third Sector Organisation)*

1. **It is important to note that what is being proposed does not stop parents or others seeking the information under DPA or FOIA it simply allows for confidential third party information to be redacted. We have made this clear in the post consultation guidance.**
2. **Taking into account responses we have amended the fostering and children’s homes regulations in line with our consultation proposals.**

# ****Question 4: Is it appropriate that the regulations identified are disapplied for providers of short break care?****

# **There were 64 responses to this question**

# Yes 51 (80%) No 5 (8%) Not Sure 8 (12%)

1. **The majority of respondents (80%) agreed that the regulations identified should be dissaplied for short break care. Comments included;**

*‘The fact that many children on short breaks generally have well-functioning parents with Parental Responsibility who are fully involved in their day to day life makes this exemption very appropriate. I would suggest that 100 days respite per year rather than 75 days as currently proposed would be more appropriate.’ (LA)*

**‘Yes. This is welcomed as a more appropriate level of expectation for these placements.’ (**Third Sector Organisation**)**

*‘Whilst we agree that the responsibilities of the fostering service provider under these regulations should not apply in the case of short breaks, we feel that the guidance should stress the importance of promoting both good health and educational achievement for children receiving short breaks as for any other child placed with a foster carer. The approach should be proportionate to the level of care being provided, noting that this could extend to periods of up to 17 days, and that children receiving short breaks as part of a support care programme may have particular needs in relation to health and education.’ (Third Sector Organisation)*

*This is a much more measured approach and reinforces the role and responsibility of parents. The clarity within the guidance is helpful. (LA)*

*‘Barnardo's provides a number of services to disabled children and their families. It is helpful that Regulation 48 of the Care Planning, Placement and Case Review regulations now provide for a reduction in the administrative requirements in recognition that the child’s parents, where applicable, will retain parental responsibility’. (Third Sector Organisation)*

1. **Short breaks are defined in regulation 48 of the Care Planning, Placement and Case Review (England) Regulations, and this definition includes the 75 day cut off. The definition of short breaks in the Fostering Services Regulations is consistent with that provision. A few respondents felt it was appropriate to dissapply some but not all of the regulations we proposed. However, taking into account the consultation responses overall the regulations provide for short break as proposed in the consultation.**

# ****Question 5: Are there other regulations that are not appropriate for particular types of service or particular providers? If yes please explain which regulation and what type of provision is being referred to.****

# **There were 50 responses to this question**

# Yes 19 (38%) No 18(36%) Not Sure 13 (26%)

1. **Responses to this questions were fairly evenly split between ‘yes’ (38%), ‘no’ (36%) and ‘not sure’ (26%).**
2. **Suggestions relating to the fostering services regulations included;**
   1. **Assessment of support/backup carers, friends and family of approved foster carers who offer occasional care/respite care e.g. babysitting the occasional holiday e.g. foster child and foster carers birth children spend go on holiday with foster carers mum for a couple of weeks.**
   2. **Foster carers and household members who work for the fostering service in some capacity**

1. **Both of the above have been addressed in the revised guidance. In fostering there was a general feeling that the changes made in the Care Planning, Placement and Case Review (England) Regulations 2010 and the proposed Fostering Services Regulations made in relation to friends and family care**[[1]](#footnote-1) **were helpful. Comments included;**

*‘The revision of fostering regulations around family and friends foster care is welcomed, as it recognises that there will be situations where a particular family may not be suitable for more general fostering but are the right family for a child who is related to or already known to them. Whilst ensuring standards are not compromised with regard to safeguarding matters, the revisions recognise the need for some flexibility, for example providing longer for family and friends carers to complete the CWDC induction standards’* (LA)

*‘The extension of the time to complete assessments of family and friends carers when a placement is made in an emergency (currently referred to “Regulation 38” placements) is welcome, since the present 6 week time-scale within which to approve them as foster carers is hopelessly unrealistic.’ (LA)*

1. There were a small number of suggestions relating to children’s homes. These included queries about regulation 15(1) (where no substantial revisions were suggested) that requires children’s homes providers to support looked after children’s contact with families; about schedule 4 concerning record keeping and about the relationship between the Children’s Homes Regulations and The Children (Secure Accommodation) Regulations 1991,
2. In response to these suggestions the guidance has been revised to outline that professional judgement may be needed in managing looked after children’s contact with their parents. The Regulations, as drafted do not limit professional judgement in circumstances where, for example, children’s homes staff become aware of safeguarding concerns.

The Regulations, as drafted, do not prevent records from being maintained in the most appropriate format. In some circumstances regulations allow that it may be sufficient for a record simply to be in electronic format, whilst we have retained the requirement at Regulation 17(4) that records relating to behaviour management and discipline have to be in a written volume Guidance suggests that this format could be held in an electronic format if electronic entries are then “barred” so that they can not be amended at a later date. Otherwise, on the basis of the consultation responses received, Government did not accept the need for detailed revision to schedule 4

1. Government does not have plans at present to revise The Children (Secure Accommodation) Regulations 1991 and therefore chapter 4 of the revised Guidance has been redrafted to make it clearer how these regulations relate to the he Children’s Homes Regulations

# ****Question 6: We would welcome your views whether the offence under Regulation 41 remains necessary in addition to the provision in new Section 22A of the Care Standards Act 2000?****

1. There was a mixture of opinion in response to this question. Many of the respondents including Ofsted who enforce the regulations said that the offence under Regulation 41 is no longer needed comments included;

*‘From an enforcement perspective, we rarely prosecute immediately for a breach of regulations. Rather, we move through our escalating tariff, using the lowest tariff possible to bring about the improvements required. We believe that the use of compliance notices under s22A of the Care Standards Act 2000 provides us with the power to enforce the regulations and gives the provider an opportunity to improve their practice. In the event that a provider fails to comply with a compliance notice, it gives us strong grounds to take action as it is clear that the provider is unwilling to make improvements. Therefore, we do not consider that the removal of offences under regulation 41 will curtail our enforcement capabilities.’ (Ofsted)*

*‘Do not think that regulation 41 remains necessary due to Section 22A (4) if the care standards act, leading to duplication. Section 22A gives appropriate power to act should a provider fail to comply with or contravene regulations. The inspection process in conjunction with the provider’s requirements to notify should enable appropriate steps to be taken at a speed appropriate to the situation. Therefore Reg 41 should not be necessary.’ (LA)*

*‘The processes specified in Regulation 41 and Section 22A are fundamentally the same. The only substantive differences are the stage in the process at which an offence is committed: under Reg. 41 contravention is an offence and, in response the Chief Inspector will issue a notice; under Section 22A on detecting a contravention the Chief Inspector will issue a notice and failure to comply is an offence. Section 22A specifies a maximum penalty (Fine at level 5) These differences do not justify keeping two systems.’ (Professional Organisation )*

1. Some respondents felt the offence in regulation 41 was needed although the majority of comments were based not on the differences in effect between the two offences but the added clarity of having the offence set out in the Children’s Homes Regulations and the Fostering Services Regulations . Comments included;

*‘Whilst not strictly necessary as the regulation is duplicated in both sets of legislation, for the sake of clarity, it is helpful for this offence to be stated in the Fostering Services Regulations’ (LA)*

*‘It would be helpful to have some cross references in the Guidance regarding the provisions of Section 22A of the Care Standards Act’ (LA)*

‘It is important this remains to emphasise the role and responsibility of the Provider, and the seriousness of the task they are undertaking. It is vital to include in the guidance as this is the working tool that is regularly accessed / referred to.’ (LA)

1. The guidance makes clear how offences apply to providers.
2. A couple of respondents did feel it was important to retain the offence because of the difference between the application of Regulation 41 and Section 22A. However, given the responses overall and the fact that Ofsted intend to use the process outlined in Section 22A rather than Regulation 41 we have decided not to include the offence in the amended Children’s Homes Regulations 2001 or the Fostering Services Regulations 2011. This decision also forms part of the Coalition Government’s aim to reduce unnecessary offences.

# ****Question 7 a: Are the exceptions from establishments that must register as a Children’s homes appropriate?** There were 37 responses to this question**

# Yes 23 (62%) No 6 (16%) Not Sure 8 (22%)

1. **The majority of respondents (62%) agreed that the exceptions set out remain appropriate.**
2. **There were a few comments for activity which people suggested should not be excepted and therefore should additionally be required to register as a children’s home. These included;**
   1. short-term assessment centres for children providing care for less than 28 days
   2. 18+ 'supported accommodation' units or flats for care lavers who require ongoing care and support
   3. **Young Offender Institutes**
   4. **Some forms of FE**
3. **A number of respondents sought clarity on the existing exceptions or asked for further clarity in the guidance. Clarity was sought on the following;**
   1. Whether accommodation provided for asylum seekers aged 16-18 years come into these exemptions and whether the intention is for these settings to be registered as children’s homes
   2. Whether Further Education institutions whereby provision may be for 16-18 year olds and provided for more than 295 days per year or where it is mixed provision is defined as a children’s home.
   3. Whether ‘supported lodgings’ are registerable as a children's home or a fostering placement or whether they do not require registration at all.
   4. The nature of the “establishment and premises” referred to in bullet points 2 & 3 is unclear as they could refer to establishments managing extremely vulnerable children

# ****Question 7 b: Are there other exceptions which it would be appropriate to include so that the provision is not regarded as a children's home?****

# **There were 30 responses to this question**

Yes 3 (10%) No 18 (60%) Not Sure 9 (30%)

1. **Just over half respondents ((59%) answered ‘no’ to this question. The following suggestions were made for things which should not be regarded as children’s homes;**
   1. Mobile children’s services: from our previous discussions with the Department, we understand that the policy intention behind the definition of a children’s home is not to bring into registration provision such as adventure/activity-based services that provide care and accommodation wholly or mainly for children but do not have a permanent residential base. It would be helpful for this exception to be included to avoid any future confusion on the matter. (Ofsted)
   2. Transitional placements for young people with disabilities where the focus is independent living, but because of physical needs or learning disability additional care is needed. In these circumstances young people should be treated in the same way non-disabled peers would be.
   3. Consideration where day care may be provided to support a child remaining in the family home
   4. Supported accommodation for CYP aged 16 plus.
2. **Chapter 1 of the revised guidance includes a definition of “supported accommodation” which is intended to help professionals determine whether an establishment providing residential supported accommodation needs to be registered as a children’s home.**  The definition of a children's home includes the provision of "care" as well as "accommodation”, so in assessing a specific establishment, a judgement will need to be made by Ofsted about whether the services provided to young residents extends beyond support and constitutes "care". Where staff are primarily responsible for resident care, rather than residents generally being able to assume responsibility for themselves - this would indicate that registration as a children home is likely to be appropriate

# ****Question 8: Do the arrangements required by Regulation 9****[[2]](#footnote-2) ****remain relevant - as the authority responsible for the child's care will be the authority that initiates placements in secure accommodation; or is it necessary to retain the regulation to cover exceptional circumstances?****

1. **There was a mixed response to this question. Very few people could think of any occasions where it might be necessary to have this regulation but nonetheless thought it could possibly provide additional safeguards. Comments included;**

*‘Regulation 9 should remain in events such as Section 136 (MHA) secure psychiatric hospital for children/young people. • Also in event that secure accommodation has an open setting and child is returned to secure in emergency situation – example of a child on mobility who seriously self harms out of hours.’ (LA)*

*‘Given the seriousness of placing a young person in secure accommodation, this additional requirement is a necessary safeguard and should be retained.’ (LA)*

*‘I think that authorities should be solely responsible for the placing of young people. However, there are situations where responsibility is disputed, in some circumstances this could lead to undesirable delays. Therefore it would seem desirable to retain the exceptional circumstances clause.’ (LA)*

1. **A number of people felt the regulation was no longer relevant citing the following reasons;**

*‘The Reg 9 arrangements do not need to be retained as the Local Authority of any child placed in secure will be party to these arrangements. I am not aware of any exceptional circumstances.’ (LA)*

*‘It is difficult to conceive of a circumstance in which this provision would be necessary – the authority responsible for the child’s care will be aware of the application as it will normally have initiated it. In any situation in which this is not so, logically the duty to notify the responsible authority should fall on the authority which did initiate the placement. In its current form the Regulation requires the accommodating authority to notify the responsible authority about their own action – a wasted effort in all but the most exceptional case.’ (Professional Organisation)*

*‘No, we do not believe that the Department needs to retain the requirements in regulation 9 of the Children (Secure Accommodation) Regulations 1991.’ (Ofsted)*

1. **Though. therefore, the majority of respondents suggested Regulation 9 was no longer needed a minority considered that it should be retained as safeguard in rare circumstances; and, as currently,** we are not planning to revise The Children (Secure Accommodation) Regulations 1991 (which were made under the Children Act 1989), the Regulation will be retained.

**Questions 9 – 15**

1. **Questions 9 - 15 were proposals how the regulations should apply to fostering and adoption panels. In summary we have changed the regulations in the following way.**
2. We have removed the requirement for there to be: fixed panel membership, maximum number of members, fixed tenure of office and two social workers (will be one) and an elected member of the local authority or agency/provider management representative to act as panel members. The Fostering Services Regulations will, however, require the chair to be independent of the provider and for the social worker member to have at least three years’ relevant post qualifying experience. These are already required for adoption panels and work well by raising standards and strengthening the independence of the panel. Transitional provisions have been included.
3. We intend the adoption agency/fostering service will be required to maintain a list of persons suitable to be panel members, and to appoint panel members from that list; and there will be no limit to the number of people on the list. This will remove the current difficulty of not being able to recruit panel members until a vacancy arises. It will be a matter for agencies/providers to decide how many panel members will sit at each panel meeting, subject to the panel being quorate. Having a pool of people with different skills, experience and qualifications to draw from will allow the most appropriate members to consider individual cases, reduce the chances of panel postponement and retain knowledgeable and experienced members.
4. The panel should include

* A chair who is independent of the agency/provider.
* A social worker with at least three years’ relevant post qualifying experience. This is a reduction from two social workers who do not have to be employed by the agency/provider.
* The medical adviser. Applies only to adoption panels and is not new. There is no change for fostering panels where the regulations continue to allow for medical and legal advice to be sought and provided to the panel.
* Other persons. These are persons considered by the agency/provider to be suitable to act as members of a panel. These members could be employed by the agency/provider but must include independent members too, though the number will not be prescribed in regulations.

1. The regulations allow for a second vice chair to be appointed, if the agency/provider wishes, to avoid panels having to be postponed when the chair and vice chair are absent.
2. The regulations set out the circumstances which would disqualify a person from acting as an independent member, and no longer disqualifies a person from being a panel member because they are related a person or is a member of a person’s household who works for the agency/provider
3. For a panel to be quorate at least five members must be present (six in the case of a joint panel), including the independent chair or vice chair, the adoption/fostering social worker and at least three (or in the case of a joint panel five) other members. Where the vice-chair is not independent, at least one independent member must be present.
4. **We hope that elected members and** management representative of voluntary adoption agencies/providers **will continue to be members of panels as they have a valuable role to play. However, to provide flexibility on who may act as a panel member we do not consider it necessary for it to be a legal requirement that they do so. Whether an elected member/management representative is a panel member or not, the local authority retains the role of corporate parent and they and agencies/providers will continue to make the final decisions based on panels’ recommendations.**
5. **The following sections provide a break down of responses and comments on the individual questions.**

# ****Question 9 a: Should there continue to be a minimum and/or maximum number of members appointed to Fostering and Adoption Panels?****

# **There were 110 responses to this question**

Yes 106 (96%) No 3 (3%) Not Sure 1 (1%)

# ****9 b) Should this be prescribed in regulations and if yes what should the minimum/maximum be?****

# **There were 99 responses to this question**

Yes 95 (96%) No 2 (2%) Not Sure 2 (2%)

1. A majority of respondents (96%) answered yes to 9a, with (96%) also answering yes to question 9b. So where people felt it is important to have a minimum or maximum number appointed to panel the view was it should be prescribed.
2. A significant proportion of respondents expressed the opinion that the current number of members for fostering and adoption panels remains appropriate and did not recognise there as being any problems with it.

*It is felt that the current number of members appointed to Adoption Panels remains appropriate. (LA)*

*The existing regulations work well – our view is that there is no need to change the current regulations. (LA)*

The current level of 10 enables there to be a sufficiently diverse representation on panel, and to allow panels to be quorate with 5 persons. Quoracy has not been an issue for the panel I chair, nor for the agency where I was manager - largely down to effective administration, and panel members[‘] commitment to attend. (LA)

1. A lot of people expressed concern about not prescribing the number of members and the main theme of this concern was that it would lead to a reduction in consistency leading to a “postcode lottery” and dilution of quality of recommendations, comments included;

*While more flexibility [is] needed to ensure that (a) the panel’s size is proportionate to the decision making and (b) there are sufficient numbers of panel members to chose from or bring in [to] ensure quoracy; to enable control over too much variation a maximum and a minimum number would be helpful. (professional organisation)*

*I am concerned that with 450 fostering services (approx) in England and Wales you are proposing to reduce some standard expectations around quality assurance in recruitment and approval of foster carers. There should certainly be a minimum number of independent Panel members - your proposals mean it is possible for all Panel members to be employees of the service. I am not aware of any current problems with the present requirements - any properly constituted fostering service should be able to bring together a quorum of 5 once a month to ensure that carers are approved in the right way subject to proper scrutiny. (Professional)*

*The idea of any agency making decision based on recommendations of very few people with limited expertise is worrying (LA)*

1. A variety of opinions were expressed about whether both the minimum and the maximum number of panel members should be specified in the regulations or whether it should be only the minimum specified in regulations. It was rightly pointed out that questions about minimum membership impacted on the other questions about panel membership and quoracy.
2. While some wanted a minimum number prescribed in regulations there was a view that it would be helpful for there to be more flexibility with the maximum. People commented that a minimum was important for the following reasons:

*In terms of numbers, we agree that the regulations should specify a minimum number of panel members for adoption and fostering. This is because decisions made by an insufficiently low number of panel members may lack independence and rigour. The independence of the panel is critical, particularly when the numbers of panel members is low (Ofsted)*

*Yes there should be a minimum so that it can be assured that recommendations are made after a thorough examination of the information provided. Maybe some flexibility about the maximum. (LA)*

*Hillingdon Fostering Panel and Adoption response - There should be a minimum number of members to ensure sufficient and rigorous scrutiny of the cases coming to panel from an appropriately wide range of experienced members. There does not seem to be the same need for a maximum number of panel members as the pool of available members could be higher than the prescribed maximum to ensure availability to meet quoracy and thus avoid delay. Individual agencies could monitor their own maximum numbers to avoid their panels becoming unwieldy. (LA)*

*Both panels are making important recommendations for children and carers. Meaningful deliberation requires there to be adequate expertise, hence the need for a prescribed minimum membership. This does require the balance of a maximum membership to prevent the task becoming unwieldy. Flexibilities that would allow for a wider group to be called upon to convene a quorate panel, in the case of illness/work commitment, would be operationally expedient. (LA)*

*I don't see the need for a maximum number - this would allow some flexibility in who attends, one of the problems there has been in achieving quorums i.e. you could have 12 named members out of which 5 are required. (Professional)*

*Yes, the minimum number should be 5. However, there should be no maximum number of panel members, provided that no more than 10 should sit at any panel meeting. (Fostering Organisation)*

1. Where people wanted a maximum number of members prescribed or put forward views for the optimum number the main concerns expressed were:

* 1. having a large enough pool to enable availability to achieve quorum,
  2. impact on panel cohesiveness and managing expectations of guaranteed attendance
  3. a very large group of panel members would allow for a changing group each panel, and reduce development of a working “team” seeking to continuously improve in terms of function, and quality
  4. too many members being overwhelming for applicants to attend

1. People put forward differing views for what the maximum number of people appointed to panel should be and these ranged from eight to 15.
2. Given the opinions expressed we propose not to prescribe a maximum number to be appointed to panel in the regulations. This would allow the fostering services and adoption agencies to decide what number works best for the individual cases before the panel. However, we have added a provision in the Fostering Services Regulations placing a duty on the provider to ensure that each panel has sufficient members (and that individual members have between them the necessary experience and expertise) to effectively discharge the panel’s functions, and we will make clear in guidance that the ability for the panel to function cohesively and with some level of consistency must be taken into account, as must the impact on applicants faced with very large panels.
3. Again, people had a variety of views about what the minimum number prescribed should be and this links to the question on the quorum. A very small number suggested three should be the minimum and a couple of people suggested four. The vast majority suggested five or more which tied in to their views on the quorum.
4. Given the fact the majority of people were of the view five is the right number there is no need to set this in regulations as the quorum is now set at five in the regulations (see question 10a and 10b).

# ****10 a) Should the quoracy for fostering and adoption panels be prescribed in regulations?****

# **There were 116 responses to this question**

Yes 114 (98%) No 0 (0%) Not Sure 2 (2%)

# ****10 b) If yes, would a quorum of three be appropriate?  If not how many would be appropriate?****

# **There were 111 responses to this question**

Yes 9 (8%) No 98 (88%) Not Sure 4 (4%)

1. Nearly all (88%) of respondents thought the **quorum for fostering and adoption panels should be prescribed in regulations. Eight percent agreed that a quorum of three would be appropriate, and the remainder (4%) answering not sure.** The vast majority of people felt the right number for the quorum is five with a few suggesting three plus the Chair. **The reasons set out were around consistency, the importance of the recommendations made to the lives of the children and the applicants the comments below were representative of the many comments received:**

*If it is not - it could be too easy for agencies to make recommendations when the vast majority of the Panel is absent and potentially not in agreement. (LA)*

*In order to ensure that panels are not a 'rubber stamping' body, we need to have a number of people of diverse backgrounds to appropriately scrutinise and question decisions made for children. (Independent Provider)*

*If not the different panels have different systems and some will be less regulated and possibly less professional because of a drive to 'get things done' rather than 'get things done well'. Adoption panels in particular make life changing recommendations about the most vulnerable children in our society - they should be subject to regulation. (LA)*

*To leave this to guidance would undermine the importance of recommendations of lifelong importance to children and families in both adoption and fostering. Taking children away from birth families is a most draconian measure only to be taken after sufficient and careful consideration. Approval and termination of foster carers also has significant impact on looked after children and financial implications for foster carers where they are fee paid and needs to be shown to have been considered very carefully by independent as well as agency Panel members. (LA)*

*5 is the smallest acceptable number to contain a range of expertise and views. (LA Adoption and Permanence Panel)*

*A quoram of 3 people would not give the range and breadth of experience required. I would not want to see 3 people making a recommendation about a child's life or whether adopters are suitable. Equally, I would not want to see this on fostering panel for the same reasons. To ensure good and thorough case discussion I believe panels need at least 5 people and this should then only be in exceptional circumstances when it is impossible to get full panel attendance. (LA)*

*This does not provide a wide enough view for proper consideration of the matters put forward. 5 would be better. In several Local authorities I have been involved with achieving quoracy of 5 or 6 has not been a problem. (LA)*

*3 is too few members for a panel to be quorate as it cannot ensure the appropriate spread of knowledge and expertise required of adoption and fostering panels. Having more members sparks important debates and discussions. (Independent provider)*

*Three is too few to avoid undue influence by powerful members. Stick with five. (professional)*

*No. Significant concern that this would impact on the independence of panels and quality of decision making. This is of particular importance to Local Authority fostering services who have to manage Family and Friends assessments which can be complex and require a very considered panel response. A range of views from panel members is useful here. The view was that quoracy should remain at 5 but with less regulation on the required panel members. (LA)*

*The current quoracy of 5 should remain. This is the unanimous view of all of those consulted in LA, including existing panel members. Reducing quoracy to 3 would completely undermine the role of and importance of the panels in relation to planning for children and the provision of safe care to our very vulnerable looked after population and children in need of adoptive homes. On the very few occasions when we have been reduced to the current minimum quoracy of 5, the quality and depth of discussion and scrutiny is notably diminished. We have never had to cancel or postpone a panel because we have not been able to achieve the current quoracy. By choosing committed panel members and managing the panels well so that unavoidable absences of panel members are known in advance, there is no reason for this to be a problem. One of our independent panel members has written- ‘’I do not think it is a good idea to reduce quoracy to three as this number in my view would not allow for sufficient cross section of expertise and views. I think the implication that the present make up and size of panel contributes to delays in the process is unfounded. Delays come from elsewhere in the process.’’ (LA)*

*We consider 3 to be below an acceptable minimum to make life changing recommendations, which may be subject to the scrutiny of the courts. The experience and length of membership of panel members rightly varies, and a breadth of membership should be available when recommendations are made The current quoracy of 5 is more appropriate, and has not given rise to any problems for us as a local authority, and allows a balance, and greater diversity for panel considerations. (LA)*

*Having consulted with a number of panel chairs and advisers in both the Local Authority and the Voluntary sector it is reported that lack of quoracy is rarely a cause of delay and it is much more common for delay to occur because reports are incomplete or lack sufficient robustness of assessment or quality of presentation. The need to ease the burden of panel organisation is understandable but before making any change in the quoracy of panel it would be important to evidence that quoracy has actually been a significant factor in delay. In relation to cost saving the significant visible costs of panels are due to the payments to independent chairs, medical and legal advisers (re adoption panels). The reduced quoracy proposed would not save these costs. In terms of the time of other panel members – much of this is given voluntarily or through provision of agency staff who are providing for their agency (or on an exchange basis) an important element of mentoring and quality control for the agencies staff. This is investment in learning and development which will offset the costs of the panel time itself. Cost savings could be made if the initial quality of social work reports were improved so that additional time and paperwork involved in addendums and additional expert reports could be avoided. A small group of three is likely to raise concerns about how fair and representative the panel’s recommendation will be. (Third Sector Organisation)*

*We have received overwhelming support with very few exceptions for retaining the quorum of 5 panel members for both fostering and adoption panels and we would strongly support the retention of a quorum of 5. We share with our members significant concerns about reducing this number. We believe it would potentially impact on the independence of panels and the quality of their decision making which is a result of being able to draw upon the varied experience and knowledge of a diverse range of panel members. As stated we believe that quoracy should remain at 5 but would welcome less regulation on the required panel members, for example enabling fostering panels to recruit social workers outside the agency to fulfil the social work role. (Third Sector Organisation)*

1. The majority of people thought five is an appropriate number. As shown above a number of people representing both adoption and fostering and both local authority and also independent/voluntary agencies and providers and third sector organisations made the point that they do not have a problem with achieving the quorum and it is not the cause of delays nor would it make financial savings. However, several people stated they would welcome more discretion about which members would be required for the panel to be quorate.
2. Given the above we propose to prescribe five (including the chair or a vice chair, the adoption/fostering social worker and at least three other members) as the minimum for quoracy allowing agencies/providers to decide the other three members. Where the vice-chair is not independent, at least one independent member must be present.

**10 c) Should there be any differences between the quoracy for fostering and adoption panels?**

# **There were 105 responses to this question**

Yes 5 (5%) No 87 (83%) Not Sure 13 (12%)

1. The majority of respondents (83%) felt that there should be no difference in quoracy between adoption and fostering panels. A few (5%) felt there should be a difference and (12%) answered not sure. The feeling was that both made extremely important recommendations about vulnerable children and foster carers/prospective adopters there was little sense in there being any differences.
2. Comments included:

*We believe that the requirements for panel members regarding minimum numbers, quoracy, independence, experience and qualifications should be the same for adoption and fostering panels. (Ofsted)*

*Not in number but could be the same - not as at present with the present Fostering Panel requirement to have two independent members rather the one for Adoption Panel. Also good to be able to have a social worker from another agency for Fostering as currently for adoption (LA)*

*Might want to allow the adoption panel to have other experts present and to contribute even if they are not part of the decision making – medical advisor, legal etc – but they do not have to be members of the panel. (Professional organisation)*

*we recommends that the quoracy for both fostering and adoption panels be the same to maintain a consistent standard for all agencies. All those attending know that this is the national norm and not just an "ad hoc" arrangement for the panel. (Third Sector Organisation)*

*In the past there was a discrepancy with regard to quoracy between fostering and adoption panels. This was amended and there is no reason for there to be any difference now, other than reducing the number of independent members present for fostering panels to be quorate to one, as outlined above in response to question 10a. (LA)*

1. Given the responses we propose that the quorum be set at five for both fostering and adoption and the prescription for membership of quoracy to be consistent across adoption and fostering.

# ****10 d) Should specific panels members be required to be at the panel meeting?  If yes, which members should they be?****

# **There were 115 responses to this question**

Yes 100 (87%) No 9 (8%) Not Sure 6 (5%)

1. The majority (87%) answered yes with (8%) answering no and (5%) answering not sure.
2. A variety of views were put forward for who the members should be. The majority of people expressed as a minimum the chair or vice chair and an independent member who could be the chair/vice chair. A lot of responses also included social worker. As described above some felt taking out specifics except for chair or vice chair would help with any quoracy issues as problems regarding quoracy have been around specific personnel rather than numbers. For example comments included:

*Apart from the panel chair or vice chair, the prescription of attendance is not helpful to ensure quoracy. The only prescription would be the chair or vice chair and possibly one independent member. (LA)*

*Clearly the chair or the vice chair and independent member/s are important. What would be inappropriate for all is if any changes led to a greater use of the IRM (Fostering organisation)*

1. Views ranged from:  
   1. Chair or vice chair
   2. chair or vice chair, and if chair or vice chair is not independent at least one independent
   3. chair or vice-chair and at least 2 independents
   4. chair or vice-chair and at least 2 independents (unless chair is already an independent)
   5. combinations of the above but include a social worker with knowledge and experience of fostering/adoption/care issues
   6. combinations of the above but at least one representative of the agency
   7. combinations of the above but include person with direct experience of care (former looked after child, son or daughter of a foster carer, foster carer)
   8. combinations of the above with addition of medical advisor and legal advisor for adoption or contribution from them in writing.

**11 Is it appropriate that we set out in regulations the general requirement\* but do not prescribe the expertise or positions which must be held by members of fostering or adoption panels?** If you consider we should prescribe expertise or positions to be held by panel members, please state what these should be and if they would be different for fostering and adoption panels.

\*‘Each fostering service/adoption agency must satisfy themselves that the numbers, qualifications and experience of individual members of a fostering/adoption panel will enable it effectively to discharge its functions.'

# **There were 110 responses to this question**

Yes 56 (51%) No 43 (39%) Not Sure 11 (10%)

1. Responses were split fairly evenly between answering yes (51%) and no (39%) with the remainder not sure.
2. Comments from those who felt it was not necessary to include particular positions included:  
     
   *There are a range of roles which can enhance Panel , to prescribe this would be restrictive to some organisations , guidance would be more appropriate. (LA)*

*Guidance as to what is considered to be relevant expertise required to avoid any confusion with Ofsted without being too prescriptive. (LA)*

*Too tight a prescription for panel membership causes problems. This proposed flexibility is welcome - but within the prescribed numbers indicated above. (LA)*

*Each agency could satisfy themselves that the numbers/qualifications/experience and expertise of panel members would enable the panel to to effectively discharge its functions. You should not prescribe expertise or positions to be held by panel members. (LA)*

*The current system of recommending in guidance rather than regulation is helpful, for example the role of an adopted adult, adopter and birth parent. This should not be prescribed in regulation but offered as good practice guidance. Medical adviser and independent Chair/vice chair are also vital roles (LA)*

*Better not to prescribe positions/expertise other than must be Chair/Vice Chair present. (LA)*

*Advice could be given in non statutory guidance (LA)*

*These aspects should not be specified in regulations but rather discussed in non-statutory practice guidance. (Professional organisation)*

1. Comments from those who felt prescription was important were around consistency of practice across panels and prescribing a broad range of expertise. included

*The prescribing of roles and expertise required of panel members has in my view led to greater consistency amongst agencies and a general improvement in the quality of discussion and awareness of issues. Therefore the prescription needs to be maintained, in particular to ensure the representation of the user perspective (formerly looked after children, adopters/foster carers) and the availability of specialist knowledge (health, education). (Professional)*

*Yes, this should be prescribed in the regulations. Panel members should include an independent member with relevant expertise/experience of adoption/birth parent. There should also be a medical adviser, social work staff. (Adoption agency)*

*As stated previously, with 450 services, there should be some core skills/experience required of Fostering Panel members to ensure that the process is not dramatically different from one service to another. There should be social work expertise, also a foster carer, and I would like to see someone with health and education expertise on a panel, as well as diversity in terms of gender and culture/ethnicity (professional)*

*Panel adviser, legal adviser, medical adviser. Having been on adoption panels where these positions have not been filled, I have seen the need for expertise in all these very specialised fields, and how important this is to decision making. Medical advisers provide very detailed advice on a very vulnerable group of children and young people many of whom have significant and complex health needs. I believe this expertise should also be available to fostering panels (LA)*

*Chair - needs to have sufficient experience and knowledge to be able to carry out role, and should be independent. independent members should have experience of adoption, or significant relevant experience of working with children/families (which would allow psychologists/ teachers etc. to be independent members). Social workers should have been qualified at least 2 years, and should have experience of fostering/adoption. Local authorities should ensure that they exchange social workers for panels, to get round issues of conflict of interest when there has been previous involvement with cases. (LA)*

1. Given the consultation responses we intend to include a revised version of the regulation.
2. Both the adoption and fostering statutory guidance will suggest who could be considered suitable to be panel members.

# ****12 a) is it appropriate to prescribe the maximum period of office for either adoption or fostering panel membership?****

# **There were 116 responses to this question**

Yes 48 (41%) No 42 (36%) Not Sure 26 (23%)

1. Responses to question 12a were split between yes (41%), no (36%) and not sure (23%).
2. Where people said that the regulations should prescribe a maximum period of office the main reason given is around needing a fresh perspective to stop the panel becoming ‘stale’. A number of people also commented that it could be helpful having a tenure as a way of removing unhelpful panel members. Comments included:

*The current level (3 terms of 3 years) allows for sufficient expertise to develop over the length of each term but also ensures the agency has access to a fresh approach by ensuring that panel membership is not continuous/without an end point. (Adoption agency)*

1. A number of people felt that prescribing tenure was unhelpful and reasons given are around the frustration at losing valuable and experienced panel members where a lot of time and expense has been invested in training and preparing them to fulfil their role. Comments included:

*We would support the removal of arbitrary periods of office for panel members and believe that robust performance management should be able to deal with any issues that arise. (LA)*

*There is generally a natural turnover of membership, therefore specifying the maximum period of office seems unnecessary and does at times lead to the loss of experienced and valued members who currently have to move on at the end of their tenure. Specifying a maximum period of office is not necessary in order to move unwanted or poorly performing panel members on – the annual appraisal is the place to address concerns of this nature. In particular, we would welcome the removal of the maximum period of tenure for independent panel chairs. The skills and knowledge needed to chair these panels are in short supply and the removal of the maximum period of tenure would help retain that expertise. (LA)*

*Panels tend to have “natural wastage” as people change roles or move on to do other things. Experience, knowledge and expertise are essential and therefore setting an arbitrary time limit is not helpful. Regular reviews of Panel Members performance should be carried out by the fostering service and those deemed not suitable should be asked to step down regardless of time served. (Fostering Organisation)*

*There is a balance to be struck here – while it is preferable to have some turnover of membership, it would be unfortunate if a panel was forced to suspend its activities because all the available persons who are both qualified and willing to be members are disqualified because of their previous membership. There are ways to address this problem, but it would be best not to specify too closely how any particular agency should deal with it. (Third Sector organisation)*

*As long as requirement for annual appraisals remain then panel felt this would be addressed via that mechanism (LA)*

*Robust annual Appraisals could address this issue and review of term of office considered within this process. (LA)*

1. We have decided not to prescribe a maximum period of office given the difficulty this causes in the loss of experienced members who can continue to make a valuable contribution. We concur with the view that there are mechanisms already in place, e.g. the appraisal system and disciplinary procedures, which should be used to remove a panel member who is not performing to the required standard. Any issues arising between reviews should addressed by the chair and the agency/provider.
2. While we appreciate the need for freshness of approach, this can be managed appropriately in different ways by the agency/provider and by being explicit about the roles of members. These points have been reflected in the guidance.

# 12 b) Or should it be for each fostering service/adoption agency to satisfy themselves that the panel member's performance is satisfactory?

# **There were 113 responses to this question**

Yes 82 (72%) No 19 (17%) Not Sure 12 (11%)

1. In response to question 12b (72%) answered yes it should be up to the service/agency to satisfy themselves that the panel members performance is satisfactory, (17%) answered no and (11%) not sure.
2. People generally thought that the agency/service should be able to assess panel members performance although some people were more comfortable with a performance system being set out in guidance or regulations. Comments included:

*There should still be a regulatory requirement for a procedure for dealing with difficult, inappropriate or disruptive behaviour. Reviews of panel members are unnecessary and unproductive (LA)*

*If the National Minimum Standards specify that the agency will monitor the performance of each panel member and take prompt and appropriate action to address any unsatisfactory performance, then this becomes a matter for inspection. (Professional organisation)*

*As it is now there is no statutory requirement for a Fostering Agency to carry out annual reviews for Panel members. The Panel felt that annual review provides a useful opportunity for the Panel member and the Agency to consider appropriate support and training. A prescribed format for the annual review is seen as advantageous in that it would ensure consistency between all Fostering Agencies and provide a comparison on performance and outcome for inspections. (LA)*

*There should be guidance on the process of monitoring panel members performance by annual reviews. (Independent Provider)*

1. Given the above and responses we are removing the requirement in regulations for panel tenure.

# ****13 a) Should we prescribe in regulations that the chair of an adoption or fostering panel is independent of the adoption agency/fostering service?****

# **There were 118 responses to this question**

Yes 109 (92%) No 4 (4%) Not Sure 5 (4%)

1. The majority of respondents (92%) answered yes to this question, with the remainder of responses split between (4%) saying no and (4%) saying not sure.

*We welcome the requirement for fostering panels to be chaired by an independent person, as is currently the case for adoption panels. It is already commonplace for independent chairs to be appointed, and perceived as good practice. The emphasis upon independent scrutiny of the work of the fostering service by the panel reinforces the need for an independent chair, and this should therefore be prescribed in regulations. We see no reason that there should be a difference in the approach to fostering and adoption panels.(Third Sector Organisation)*

*YES. This is fully supported by us and by all our consultations.(Third Sector Organisation)*

*The independent role is important to offer challenge. (Professional organisation)*

*Our chairs of both fostering and adoption panel are both independent and have been for some time. This works very well and ensures independence from the fostering and adoption teams. I believe it raises standards and ensures quality performance. (LA)*

*The independence of the chair is now an important part of the quality assurance function. (LA)*

*Chairs should be independent to avoid internal issues, to ensure there is no conflict of interest and to allow for a fresh perspective on agency practice. (Independent provider)*

*There is a very important role for the chair, to ensure that poor practice does not negatively impact on a child, or adopters. Since the independent chairs have been brought in there has been a increase in the quality of decision making, and professionalism of panels, as well as greater impartiality. Performance issues can be raised by the chair direct with the agency decision maker, or though the adoption adviser. (LA)*

*This supports the function of the panel as a scrutiny body, ensuring that the agency is conducting the business thoroughly, fairly and transparently. Fostering panels should be brought in line with adoption panels (LA)*

1. Views to the contrary included the fact that as long is there is independent representation that should be sufficient. A couple of respondents also suggested that in a large organisation a senior manager who does not manage those or practitioner could do the job as well as someone who is 'independent'. A couple of local authorities expressed concern that while it is beneficial to have an independent chair the process of recruiting and re-contracting an independent chair is costly and time consuming for the local authority and it can be difficult to find an appropriately experienced and skilled person to perform this role. Views included:

*In adoption, the panel Chair has considerable influence on their panels and is able to independently assess and feedback to the agency any issues regarding paperwork/reports from children & families teams, and the adoption service. In fostering, while the panel chair is equally influential, the bulk of the cases presented concern foster carers, rather than children. In LA it is invaluable to have the County manager as the chair of several panels, to quality assure and monitor work presented. It is probably more difficult in a small authority or IFA where there is not a senior specialist fostering role, above team manager, to get this objectivity. We feel therefore that the issue of independence of the Panel chair should be flexible (LA)*

*The independent chairing role is useful, however, in large organisations such as ours, there may be the ability to have an ‘independent chair’ from another region or same area without necessarily employing someone externally. (Third Sector Organisation)*

*Chairs of Adoption Panels should remain independent of the Agency. We are less convinced of the need for the same requirement to apply in respect of Foster Panels, where the main function of the panel is the approval and review of foster carers. Foster Panel Chairs need to have expertise and understanding of the nature of foster care, but also awareness of the resource needs of the service in order that the Panel can be helped to contribute to the task of ensuring that the service is recruiting carers able to meet the needs of the children in the care of the Authority. Chairs should however have no line management responsibility for the placement service. (LA)*

1. In light of the responses, we propose to prescribe that the chair should be independent of the fostering service/adoption agency although they could still be part of the Department/local authority this gives flexibility for the individual to work for another part of the local authority for example the education Department.
2. The new fostering Services Regulations provide transitional arrangements in respect of the requirement for fostering panels to have an independent chair. This is to allow for continuity of those panels who currently have no independent Chair. No such provision is needed for the chair of adoption panels as they are already required to be independent. The guidance clarifies the importance of independence including being mindful of the impact on independence of long tenures.

# ****13 b) Should we prescribe in regulations that the vice chair is also independent of the adoption agency/fostering service?****

# **There were 116 responses to this question**

Yes 54 (46%) No 46 (40%) Not Sure 16 (14%)

1. Nearly half of respondents (46%) felt that the vice chair should also be independent as a logical extension of the view that the chair should be independent. However, a large number (40%) felt the vice chair should not have to be independent including people who agree the chair should be independent. (14%) answered not sure.
2. While the comments showed that a majority thought it would be good practice for the vice chair to be independent a large number commented that it would be an unrealistic requirement, practically difficult to achieve, costly and overly prescriptive. Comments included:

*This would be ideal - but not sure about it being a regulatory requirement as it may not be easy to have another independent member with the required knowledge and skills to Chair a panel. l would not like to think that the issue of skills to chair influenced a decision on who to appoint as an independent member. i.e. reluctance to appoint a birth parent or a certain adopted person because they did not have the skills to chair the Panel. (LA)*

*Whilst recognising the benefits of an independent chair, we recognises that the vice chairs would usually only be involved in a small number of panel meetings and appreciates this would have recruitment and resource implications for adoption agencies and FSPs so we would not support a requirement for independent vice chairs. It has been suggested that in the event of 2 vice chairs being appointed there may be scope for one of them to be independent. (Third Sector Organisation)*

*Yes, this would be good practice however costs have to be considered. If requirement for panel chair to be independent vice chair should also be independent as at times will be acting as chair. However, under current regulations it has proved to be very difficult to fill this position seeking volunteers amongst panel members. Again there will be additional significant cost implications (as above) for local authorities if vice chairs were also required to be independent. (LA)*

*This should be up to the Agency. Ideally an independent vice chair (or vice chairs) should be proposed, but at any given time it is possible that the best chairing skills may not sit within the group of independent members. It must be emphasised that the vice chair should only chair a panel very occasionally, and not on a regular basis. (LA)*

*Practically this would be difficult to achieve. It may be a good practice rather than regulatory requirement. (LA)*

*To prescribe whilst consistent with the above would cause practical difficulties and risk overloading panels with independent members. (LA)*

1. We have not prescribed in regulations that the vice chair must be independent in the regulations, given the fact that the vice chair should only be chairing the panel occasionally in the absence of the chair, and the concerns about the practical and cost implications. However, where the vice chair is not independent and is in the chair, the new Regulations require that at least one of the other panel members must be independent for the panel to be quorum,

# ****14 a) Do you agree that more than one vice chair may be appointed if the fostering service/adoption agency wish?****

# **There were 118 responses to this question**

Yes 98 (83%) No 12 (10%) Not Sure 8 (7%)

1. A majority of (83%) agreed with this proposal, with (10%) disagreeing and (7%) being unsure. Comments in favour stated that it would give the panel more flexibility and make availability better. Comments included

*It could be useful to have two, but no more. The vice chair is unlikely to get much experience of chairing a meeting. In my panels it is very rare for the chair to be off. Therefore it would be more difficult for two vice chairs to gain the experience of chairing as they would have to 'Take Turns' this might not be so appealing for a vice chair. (LA)*

*This would seem to be advantageous if the agency wishes to have a second vice chair, and would also give reticent members the reassurance that the role would be shared and not fall only on one person's shoulders. (Professional)*

*We would normally expect the panel chair to attend 75% of the meetings, and for the vice chair to take the chair at any remaining meetings. However, we recognise that that the ability to appoint a second vice chair might be necessary to cover any unforeseen circumstances so as to avoid delay in considering panel business. (Fostering Organisation )*

*We support this suggestion. We believe that there may be circumstances where it is appropriate for a panel to appointment more than one vice chair. (Ofsted)*

*Yes, It is so frustrating when a whole panel has to be cancelled due to the lack of anyone to chair it. (LA)*

*It is crucial that any danger of delay is minimised, therefore there should be the option to appoint any of the independent members as vice chair if the chair is unavailable (LA)*

*Whilst this may be only an occasional problem for single agency panels allowing 2 vice chairs would reduce the risk of delay due to quoracy issues. (LA)*

*The maximum should be 2, otherwise this will dilute the panel’s role in fulfilling a consistent quality assurance role (Fostering Organisation)*

1. Where people disagreed the comments showed that it was generally around them not feeling it was necessary as they had not experienced problems in having neither the chair nor the vice chair available. In addition, people felt it could be problematic if we prescribed that the vice chair must be independent.
2. **14 b) If so, should there be a maximum number of vice chairs?**

# **There were 110 responses to this question**

Yes 83 (76%) No 18 (16%) Not Sure 9 (8%)

1. Around three quarter of people (76%) felt that there should be a maximum number of vice chairs as reflected in some of the comments above. The majority of comments indicated that two should be the maximum number although a couple of people suggested that not setting a maximum number would increase flexibility.
2. As above people felt having two vice chairs may help in exceptional circumstances where the chair and vice chair are both unavailable. However, many felt having more than two would lead to inconsistency of approach and confusion for panel members and that there needed to be recognition that chairing panel does require some experience and expertise. It was felt that if a large number of vice chairs ended up being used there would be less opportunity to gain experience and it could lead to inconsistency.

# ****14 c) Should we prescribe in regulations that more than one vice chair may be appointed if the adoption agency/fostering service so wish?****

# **There were 106 responses to this question**

Yes 85 (80%) No 13 (12%) Not Sure 8 (8%)

1. The majority (80%) answered yes, (12%) answered no and (8%) not sure. Some of the respondents who said no, indicated that they wanted it to be up to the individual agency/provider whether they chose to appoint more than one vice chair. The majority of comments answering yes wanted the regulations to prescribe that a panel *may* appoint a maximum of two vice-chairs, i.e. set the maximum at two vice chairs in regulations to ensure some consistency but not require that two must be appointed. This would also enable flexibility for those panels that do not wish to appoint more than one vice chair, as they do not feel the need for the additional flexibility. Comments included:

*Yes it should be in regulations that more than one vice chair is possible and a consistent view would be helpful, but this should be the agency that decide this. (LA)*

*We suggest that 1 is sufficient, however, if the Regulation as proposed is to remain, then there should be a maximum of 2 Vice Chairs, for reasons of consistency (Fostering organisation)*

*Yes, we recommend that the regulations prescribe that a panel may appoint a maximum of two vice-chairs. (Ofsted)*

*This should be regulated rather than discretionary (LA)*

1. Given the responses to question 14a, 14b and 14c the regulations require a vice chair be appointed and will allow for a second vice chair to be appointed. This does not mean that agencies/providers must appoint more than once vide chair but it gives them the flexibility to appoint two if they choose. There is no requirement that the vice chair/s be independent of the agency/provider.

# ****Question 15: The guidance clarifies that foster children should enjoy the same opportunities as their peers to have a fulfilled childhood, stay over with friends and take part in school trips and family holidays. This government is clear that in order to achieve this the foster carer must be able to take day to day decisions about the child as any parent would. What decisions can be taken by the foster carer and where parental or local authority permission must be sought needs to be understood by all as part of care planning.****

**Is there more we can do either in guidance or regulations to further clarify this position?**

1. The majority of respondents welcomed the inclusion of this issue in the guidance and also the Minister’s letter to directors of children’s services, which stressed the importance of local authorities delegating authority for every day decision making to foster carers wherever possible. Consultees comments about what more could be done included the following themes for guidance which have been taken into account in the revision of the guidance:  
   1. It was suggested that a specific section should be included in the guidance on delegated authority and consents. We agree that this matter merits a separate section.
   2. It was suggested that there should be a cross reference to the section of the Children Act 1989, Volume 2: Care Planning, Placement and Case Review Statutory Guidance on shared responsibilities and consents; and that the guidance should reinforce the need for agreements about delegated authority to be achieved as part of placement planning meetings, and reviewed at care planning and review meetings, taking into account the views of birth parents’ and the legal status of the placement. A cross-reference will be included to the Care Planning, Placement and Case Review Statutory Guidance. That Guidance makes clear that the placement plan should provide clarity about what authority the parents have delegated to the local authority, and how the day to day parenting tasks will be shared between the foster carer and the local authority. We will consider whether more can be done to stress the importance of decisions about delegation of authority being reviewed regularly as part of the review of the care plan.
   3. Produce a checklist of decisions that may be delegated so that this could be looked at as a matter of course when drawing up the placement plan. This links with the work the Department has funded the Fostering Network to carry out to support local authorities’ improvement in practice around delegation of authority to foster carers.
   4. Make clear the differences between short-term and permanently-placed children and the implication of the child’s legal status (e.g. placed under s20 or under a care order) for who has parental responsibility. Emphasise that arrangements for delegated authority should be given particular scrutiny when children are confirmed in long term or permanent placements. Attention should be given to a *shift* in how responsibilities are shared in long term or permanent placements in order to reinforce and support the bonds and attachments which foster carers will be expected to build.
   5. Highlight the importance of working with parents to help them understand and relate to fostering services and foster carers. This should support agreement over appropriate delegation of responsibilities.
   6. Highlight the importance of consultation between IFPs and LAs over carers’ responsibilities and local authorities being timely in providing information or delegated consent when effecting placements with IFPs.
   7. clear guidance about what checks need to be done if the child is to go on holiday or stay with: 1) a member of their birth family 2) a member of their foster carers' family .
   8. In addition we have updated the LAC(2004)4 and incorporated it into the guidance.

# ****Question 16: Should local authority foster carers be exempt from being required to register with Ofsted on the early years register and deliver the Early Years Foundation Stage (in addition to being registered as a foster carer), in order to provide childcare on a short-term basis for a looked after child aged 5 or under who is placed with another foster carer?****

# **There were 69 responses to this question**

Yes 55 (80%) No 8 (11%) Not Sure 6 (9%)

1. A majority of (80%) answered that yes local authority foster carers should not be required to register on the early years register for childminding when looking after a foster child. A minority of (11%) said no and (9%) where not sure. From the comments made by respondents a couple of respondents may have said no as they where unclear that local authority foster carers is the term used for all foster carers whether or not they been approved by a local authority or an independent fostering provider.
2. Comments in favour included the following reasons;  
   1. Needed to help us develop a network of support. Foster carers should be encouraged to support each other to meet children’s needs, and this includes caring for looked after children placed with other foster carers to enable those carers to undertake training, attend meetings, or meet other family commitments
   2. Foster carers who provide a service in this way are already vetted, approved and trained, and are used to caring for looked after children.
   3. Foster children cannot generally/successfully access the services of a childminder because of their needs and the lack of understanding into why they behave as they do
   4. It is unreasonable to expect a carer to comply with 2 different sets of regulatory requirements
   5. It is disproportionate given that foster carers have to undergo an approval, review and training process and that their care of children is monitored far more frequently than that of childminders
3. Comments included;

*Foster carers receive 6 weekly supervision and support, initial and ongoing training, are rigorously assessed and approved, and expected to complete the CWDC workbook. They should not be expected to have to go through the childminding process so they can provide day care for another looked after child. There could be some benefit from delivery of the Early Years Foundation Stage, but this does not need to be regulated. (LA)*

*The fostering task includes commitments other than the direct day to day care of the child – such as attendance at child protection conferences, reviews etc. It is clearly in the interests of the child to maintain as much stability as possible while meeting these commitments, and pairing arrangements seems a logical way to address this. Regarding such arrangements as childminding seems disproportionate, and tends to encourage other, less consistent arrangements. When a carer has been assessed and approved as suitable to accept responsibility for 24/7 care of looked after children, it is difficult to justify the necessity also to be approved on the early years register in order to provide occasional brief periods of care. (Professional organisation)*

*This never made any practical sense and needs to change (LA)*

*This is needed to help us develop a network of support. Foster children cannot generally/successfully access the services of a childminder because of their needs and the lack of understanding into why they behave as they do. Looking after other foster carers LAC is a way forward and makes great use of a fantastic resource. The children would be instantly accepted and their needs are paramount. (LA)*

*Yes. Assessment and approval of foster carers is both intensive and extensive regarding their suitability to look after children. Many will either have, or develop, skills and training in E/Y and child development. Foster Carers are effectively taking the role of C/M for young children unless day care is additionally used. We would not routinely expect Foster Carers to use Childminders suggesting that we would normally expect their early years input to be at least adequate. (LA)*

1. A few people expressed that for an exemption to be acceptable there need to be appropriate safeguards in place these included;
   1. Clear monitoring of activities of carers as risk factors will be relevant, especially if the young person on placement has safe care issues. (LA)
   2. Arrangements between carers should not need to come under Childminding arrangements, provided that a clear written agreement is put in place involving both carers, anyone with PR (where at all possible), and the Fostering Agency or Agencies involved. (LA)
   3. We consider such registration to be a wholly unnecessary measure given the robust assessment and approval process of foster carers – provided the day-care arrangement has been notified to and agreed by the placing fostering service. (LA)
   4. Setting a maximum number of days
   5. Any care being within the foster carers terms of approval
2. It should be noted that the current exemptions will continue to apply so if the foster carer is providing care within the child’s care plan they would not be required to register as a childminder even though they are not the child’s ‘regular’ foster carer’. In addition, if the foster carers are arranging care among themselves and are not paying each other for the activity they are undertaking with another foster child they are not required to register as a childminder.
3. Given the responses to the consultation we propose to amend the Childcare (Exemptions from Registration) Order 2008 so that a local authority foster carer who looks after another foster carer’s foster child is not required to register as a childminder.

# ****Question 17: Should local authority foster carers be exempt from being required to register with Ofsted on the general childcare register (in addition to being registered as a foster carer) in order to provide childcare on a short-term basis for a looked after child aged 6 or 7 who is placed with another foster carer?****

# **There were 69 responses to this question**

Yes 55 (80%) No 8 (11%) Not Sure 6 (9%)

1. A majority of (80%) said yes local authority foster carers should not be required to register on the early years register for childminding when looking after a foster child. A minority of (11%) disagreed and (9%) where not sure. It was not easy to tell from the comments why those who disagreed with the question did so. Comments in favour were the same as those outlined above. Comments included;

*As in response to question 16, we believe it is the responsibility of the fostering agency to ensure that the foster carers who provide child care on a short term basis for a looked after child aged 6 or 7 is provided with the necessary training and guidance and quality assessment. Therefore, we feel these carers should be exempt from registering with Ofsted. (Third Sector Organisation)*

*Foster carers are assessed, supported and reviewed to a high level already and should therefore be exempt. (LA)*

*Constructive to remove this requirement. (LA)*

1. Given the responses above we propose that foster carers should not be required to register on the general childcare register when they provide care for another foster carer’s foster child.

# ****18 Should there be any restrictions on the scope of any exemption to register.  For example, a limit on the number of days a foster carer can provide child care to a looked after child placed with another foster carer without registering as a childminder?****

# **There were 66 responses to this question**

Yes 16 (24%) No 39 (59%) Not Sure 11(17%)

1. Just over half (59%) thought there should be no restrictions on the exemptions, (23%) thought that there should be restrictions and (17%) were not sure.
2. Comments in favour of no restrictions included;

*This should be left to the fostering agency to decide based on careful assessment. (LA)*

*No, we do not believe this is necessary as long as the child care has been authorised by the child’s social worker or team manager. (Third Sector Organisation)*

*The child’s care plan will address the care arrangements and take account of how best to meet his or her needs, ensuring that day to day arrangements are appropriate. (Professional organisation)*

*Because this is a role (acting as a foster carer not a child minder) issue not a volume/frequency issue. (Professional organisation)*

*This is not seen as necessary and could affect continuity of care for a particular child where, for example, one foster carer is helping another out after school, or providing regular weekend respite to keep the main placement going. (LA)*

*Local authorities need to have flexibility for carer-to-carer support (LA)*

*As flexible as possible and managed through the care plan. (LA)*

*The needs of some fostered children are so great that having flexibility with this sort of day care supports continuation of the placement. Also it is relevant where foster carers know each other and the children they each look after, providing this support to each other when they need to attend training etc. is helpful. (LA)*

1. The minority in favour of restrictions or guidance made the following comments;

*We agrees that there should be a limit on the number of days a foster carer can provide child care to a looked after child placed with another foster carer. We suggest that it is in line with the proposed short break care provision which is a maximum of 75 days a year. (Third Sector Organisation)*

*Maximum of 14 consecutive days per child and maximum of 60 days per child over a 12 month period. (Professional organisation*)

*Suggest 28 days so that irregular and persistent arrangements do not go unregulated. • Should consider cumulative time, too, as need to consider possible misuse of regulatory frame-work such as child bouncing back and forth between placements to stay within period defined. (LA)*

*The Local Authority and Fostering Provider should be informed and give prior agreement to such arrangements (LA)*

*Regular and ongoing arrangements should require registration, unless foster carers are also trained to deliver the Early Years Foundation Stage (LA)*

1. In light of the comments above and the fact the majority do not wish to impose restrictions we will amend guidance to cover that :   
   1. The child’s placement plan should set out any restrictions the responsible authority considers it appropriate to place on the provision of alternative care by a foster carer other than the one the child is placed with.
   2. Where such alternative care is likely to be ongoing and is known about at the point of a care planning meeting, the specific arrangement should be recorded in the placement plan.
   3. Where a specific arrangement is not recorded in the placement plan, the foster carer should seek approval to the arrangement from their fostering service who must comply with any restrictions in the placement plan when determining whether approval should be given.
   4. Although these arrangements will not constitute a fostering placement under the Fostering Services Regulations, the fostering service will need to consider the capacity of the carer to undertake this activity in the context of the age, needs and numbers of their foster children and other children in the household.
   5. The fostering service should require the foster carer to agree to promote the child’s education, attainment, etc. as they would a foster child placed with them.
2. The arrangements above are intended to provide an effective mechanism of monitoring foster carers who look after another foster carer’s foster child to ensure the safety and wellbeing of the foster child.
3. The exemption only applies in relation to a local authority foster carer looking after a foster child. If a local authority foster carer[[3]](#footnote-3) wished to care for a non-fostered child then they would be required to register with Ofsted in line with registration requirement.

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| **Annex A – Consultation Respondents (excluding those who asked for their responses to be confidential)** |
| Adoption Matters Northwest (Norman Goodwin) |
| Adoption UK (Jonathan Pearce) |
| Ballsdon, Isobel (Reading Borough Council) |
| BANES Council (Jen Russell) |
| Barnardo's (Enver Solomon) |
| Bath and North East Somerset Adoption and Permanence Panel (Sarah Acheson) |
| Bentley, Pete |
| Birmingham Adoption Service (Helen French) |
| Blackpool Council (Mandy Williams) |
| Bolton Council (Barbara Ash) |
| booth, carrol (rmbc foster care) |
| Bournemouth Borough Council (Heather Freeman) |
| Bradford MDC (David Byrom) |
| Brent Adoption and Permancy Panel (Dyelia Morgan) |
| Brent Council (Head of service - placements) (Hilary Brooks) |
| Brighton and Hove City Council (Graham Whitaker) |
| Bristol City Council (Christine Teller) |
| British Association for Adoption & Fostering Health Group (Florence Merredew) |
| British Association for Adoption and Fostering (Elaine Dibben) |
| British Association of Social Workers (BASW), The |
| British Psychological Society (C A Allan) |
| Brown, Helen Cosis (Middlesex University) |
| Brown, Louise |
| Buckinghamshire County Council (Diana Large) |
| Calderdale Council (Madeleine Baldon) |
| Calderdale MBC (Andrew Walker) |
| Cambridgeshire County Council (Florence Lindsay-Walters) |
| Capital Care and Foster Ltd (Kay Tame) |
| CCS Adoption (Jan Cleave) |
| Central Bedfordshire Council (Fiona Mackirdy) |
| Cheshire West and Chester Council (Sue Steeland) |
| Children Are Unbeatable! (Rachel Hodgkin) |
| Children's Rights Director for England, The (Roger Morgan) |
| Children's Society (Iryna Pona) |
| Childrens Workforce Development Council (Ann Harrison) |
| Clare Lodge - Peterborough (Michael Nerini) |
| Cornwall Council (Nigel Jackson) |
| Council for Disabled Children (Joanna Carr) |
| Croham Services for Children (Chris Brann) |
| Derby City Council (Diane Grist) |
| Derby City Council (Carol Gilbert) |
| Devon County Council (Jonathan Hepworth) |
| Doig, Alex |
| Dorset County Council (Jim Chamberlain) |
| Edington, Lorraine (NFA) |
| England North Division (Jane Butler) |
| Essex County Council (Jean Imray) |
| Faith in Families (Gail Jackson) |
| Family Rights Group (Bridget Lindley) |
| Ferguson, Sue |
| Ferry, Diane |
| Foster Panel Chairs Group (Alan Johnstone) |
| Fostering Network, The (Robert Tapsfield) |
| FosterTalk (Jackie Edwards) |
| Gibney, Gabrielle |
| Greenland, Roger (Foster Care Associates) |
| Halton Borough Council (Janet Bodie) |
| Hampshire County Council (Gill Burtwell) |
| Hill, Helen (LA Fostering panel member) |
| Holmes, Marie |
| Independent Fostering Agency (Alison McDaid) |
| Information Commissioner, The |
| Intercountry Adoption Centre (IAC) (Gill Haworth) |
| Jobber, Kathryn (Dudley MBC) |
| Kaleidoscope Therapeutic Child Care (Angela Thorne) |
| Kelly, Sarah (Musgrove Park Hospital Foundation Trust) |
| Kent County Council (Rosalind Turner) |
| Kirklees Council (Janet Matley) |
| Lancashire County Council (Bath Barbara) |
| Latimer, Denise (Plymouth Social Services Children and Families) |
| Lincolnshire County Council (John Harris) |
| London Borough of Barnet (Liz Aston) |
| London Borough of Camden (Pal Jandu) |
| London Borough of Hammersmith and Fulham (Steve Miley) |
| London Borough of Hillingdon (Andrea McMahon) |
| London Borough of Lambeth (Adam Preis) |
| London Borough of Waltham Forest (S Neville) |
| London Borough of Waltham Forest Adoption Service/Adoption & Permanency Panel (Jane Anderson) |
| NASS (Claire Dorer) |
| National Children's Bureau (Zoe Renton) |
| National Fostering Agency (Elisabeth Cowling) |
| Nationwide Association of Fostering Providers (NAFP) (Kevin Williams) |
| Newstone, Simon (Consulting Matters) |
| nobbs, kala (MKT Associates Ltd) |
| Norfolk County Council Adoption Panel A (Peter Ward) |
| Norfolk County Council Adoption Panel B (Peter Ward) |
| Norrington, Pamela |
| North East Lincolnshire Council (Sheila Ingram) |
| Northamptonshire County Council (Martin Adams) |
| Nottinghamshire Adoption Service (Peter Hodgkinson) |
| Ofsted (John Goldup) |
| Ofsted (Steve Pearson) |
| Oldham Council (Anne Tully) |
| Oxfordshire County Council (Fran Fonseca) |
| Pathway Care Ltd (Sharon Cavaliere) |
| Plymouth City Council Fostering Service (Anne Osborne) |
| Prison Reform Trust (Rebecca Nadin) |
| processString(Lioncare Group, The) (Matt Vince) |
| Redcar & Cleveland Borough Council (Richard Wrighton) |
| Roe, Gwen (Derbyshire County Council) |
| Rotherham Children's Services (Liz Shingler) |
| Royal Borough of Kensington & Chelsea (Sarah Haugeberg) |
| Royal Borough of Kingston Upon Thames (Jenny Rigby) |
| Saunders, Kirsty (Hertfordshire Community Health Services) |
| Sayers, Andrew (BAAF) |
| sharma, usha |
| Sheffield City Council Adoption Managers (Sue Clarke) |
| Shropshire Council/Borough of Telford & Wrekin LAs (Catherine Warner) |
| Somerset County Council (Diana Polley) |
| Somerset County Council (Linda Barnett) |
| Southend Borough Council (lyndsay davison) |
| Staffordshire County Council Children's Services (John Gregg) |
| Stewart, Roy (Social Work Consultancy) |
| Stockport MBC Adoption Service (Jackie Dudley) |
| Sunderland Children's Services (Phill Taylor) |
| Swindon Borough Council (Graham Senior) |
| Team Fostering (Vicky Davidson-Boyd) |
| Todd, Peter |
| University of Bristol (David Berridge) |
| Warwickshire County Council (Brenda Vincent) |
| West Berkshire Council (Bob Thiele) |
| West Midlands Regional Family Placement Consortium (Caroline Price) |
| Wiltshire Council (Andrea Viner) |
| Wiltshire Fostering Panel (Judith Redmond) |
| Yorkshire & Humberside Independent Adoption Panel (Collette Ibbotson) |
| Yorkshire Adoption Agency (Collette Ibbotson) |
| Young, Alison (Time Out Fostering) |

**Q1a) Are there areas where you think we could take out further detail, and if so, could you specify what these are?**

There were 72 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 5 | 5 | 0 | 1 | 0 | 0 | 1 | 1 | **13** | **18%** |
| **No** | 27 | 8 | 4 | 3 | 0 | 4 | 3 | 2 | **51** | **71%** |
| **Not Sure** | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 4 | **8** | **11%** |

**Q1b) Please set out what implications this could have for practice?**

Text Question only.

**Q2a) Are you content with the structure of the guidance?**

There were 82 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 31 | 15 | 2 | 3 | 1 | 5 | 5 | 5 | **67** | **82%** |
| **No** | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 2 | **5** | **6%** |
| **Not Sure** | 5 | 1 | 2 | 1 | 0 | 1 | 0 | 0 | **10** | **12%** |

**Q2b) Are you content with the overall tone and level of detail within the guidance?**

There were 82 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 29 | 15 | 3 | 4 | 0 | 3 | 3 | 4 | **61** | **74%** |
| **No** | 4 | 2 | 0 | 0 | 1 | 1 | 2 | 3 | **13** | **16%** |
| **Not Sure** | 4 | 0 | 2 | 0 | 0 | 1 | 0 | 1 | **8** | **10%** |

**Q2c) are there areas of detail that you would like removed, and if so, what are these?**

There were 71 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 7 | 5 | 1 | 2 | 0 | 1 | 0 | 3 | **19** | **27%** |
| **No** | 24 | 6 | 3 | 2 | 0 | 1 | 3 | 2 | **41** | **58%** |
| **Not Sure** | 5 | 3 | 0 | 0 | 0 | 1 | 0 | 2 | **11** | **15%** |

**Q2d) Are there important areas that we have omitted in the guidance, and if so, what are these?**

There were 74 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 12 | 9 | 1 | 3 | 1 | 3 | 2 | 7 | **38** | **51%** |
| **No** | 16 | 3 | 1 | 1 | 0 | 1 | 1 | 0 | **23** | **31%** |
| **Not Sure** | 5 | 4 | 1 | 0 | 0 | 1 | 0 | 2 | **13** | **18%** |

**Q3 Are you content with our proposal to remove the requirement for the registered person to provide, when so requested by children and their parents, a copy of a report in respect of any review conducted in line with regulation 34 (1) of the Children's Homes Regulations and regulation 35 (1)(a) of the Fostering Services Regulations.**

There were 67 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 29 | 13 | 0 | 4 | 0 | 4 | 2 | 7 | **59** | **88%** |
| **No** | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | **4** | **6%** |
| **Not Sure** | 1 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | **4** | **6%** |

**Q4 Is it appropriate that the regulations identified are disapplied for providers of short break care?**

There were 64 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 25 | 13 | 0 | 4 | 0 | 3 | 3 | 3 | **51** | **80%** |
| **No** | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | **5** | **8%** |
| **Not Sure** | 2 | 2 | 0 | 0 | 0 | 2 | 1 | 1 | **8** | **12%** |

**Q5 Are there other regulations that are not appropriate for particular types of service or particular providers? If yes please explain which regulation and what type of provision is being referred to.**

There were 50 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 7 | 2 | 0 | 3 | 0 | 2 | 1 | 4 | **19** | **38%** |
| **No** | 12 | 5 | 0 | 0 | 0 | 1 | 0 | 0 | **18** | **36%** |
| **Not Sure** | 4 | 5 | 0 | 1 | 0 | 1 | 1 | 1 | **13** | **26%** |

**Q6 We would welcome your views whether the offence under Regulation 41 remains necessary in addition to the provision in new Section 22A of the Care Standards Act 2000?**

Text Question only.

**Q7a) Are the exceptions set out in regulations appropriate?**

There were 37 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 15 | 1 | 0 | 1 | 1 | 2 | 2 | 1 | **23** | **62%** |
| **No** | 3 | 0 | 0 | 2 | 0 | 0 | 0 | 1 | **6** | **16%** |
| **Not Sure** | 1 | 4 | 0 | 0 | 0 | 1 | 0 | 2 | **8** | **22%** |

**Q7b) Are there other exceptions which it would be appropriate to include so that the provision is not regarded as a children's home?**

There were 30 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | **3** | **10%** |
| **No** | 12 | 2 | 0 | 3 | 0 | 0 | 0 | 1 | **18** | **60%** |
| **Not Sure** | 3 | 3 | 0 | 0 | 0 | 2 | 0 | 1 | **9** | **30%** |

**Q8 Do the arrangements required by Regulation 9 remain relevant - as the authority responsible for the child's care will be the authority that initiates placements in secure accommodation; or is it necessary to retain the regulation to cover exceptional circumstances?**

Text Question only.

**Q9a) Should there continue to be a minimum and/or maximum number of members appointed to Fostering and Adoption Panels?**

There were 110 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 46 | 21 | 19 | 2 | 1 | 5 | 7 | 5 | **106** | **96%** |
| **No** | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | **3** | **3%** |
| **Not Sure** | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **1** | **1%** |

**Q9 b) Should this be prescribed in regulations and if yes what should the minimum/maximum be?**

There were 99 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 42 | 19 | 16 | 1 | 1 | 3 | 8 | 5 | **95** | **96%** |
| **No** | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | **2** | **2%** |
| **Not Sure** | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | **2** | **2%** |

**Q10a) Should the quoracy for fostering and adoption panels be prescribed in regulations?**

There were 116 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 49 | 21 | 21 | 3 | 1 | 6 | 8 | 5 | **114** | **98%** |
| **No** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** | **0%** |
| **Not Sure** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | **2** | **2%** |

**Q10b) If yes, would a quorum of three be appropriate?  If not how many would be appropriate?**

There were 111 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 3 | 3 | 0 | 1 | 0 | 0 | 0 | 2 | **9** | **8%** |
| **No** | 43 | 17 | 20 | 1 | 1 | 5 | 8 | 3 | **98** | **88%** |
| **Not Sure** | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | **4** | **4%** |

**Q10c) Should there be any differences between the quoracy for fostering and adoption panels?**

There were 105 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 2 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | **5** | **5%** |
| **No** | 40 | 12 | 16 | 2 | 1 | 4 | 7 | 5 | **87** | **83%** |
| **Not Sure** | 4 | 2 | 3 | 1 | 0 | 1 | 1 | 1 | **13** | **12%** |

**Q10d) Should specific panels members be required to be at the panel meeting?  If yes, which members should they be?**

There were 115 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 42 | 20 | 20 | 1 | 1 | 5 | 8 | 3 | **100** | **87%** |
| **No** | 4 | 0 | 1 | 0 | 0 | 1 | 0 | 3 | **9** | **8%** |
| **Not Sure** | 3 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | **6** | **5%** |

**Q11 Is it appropriate that we set out in regulations the general requirement above but do not prescribe the expertise or positions which must be held by members of fostering or adoption panels?**

**If you consider we should prescribe expertise or positions to be held by panel members, please state what these should be and if they would be different for fostering and adoption panels.**

There were 110 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 27 | 8 | 10 | 2 | 0 | 2 | 3 | 4 | **56** | **51%** |
| **No** | 15 | 8 | 9 | 1 | 0 | 5 | 3 | 2 | **43** | **39%** |
| **Not Sure** | 5 | 2 | 2 | 0 | 0 | 0 | 2 | 0 | **11** | **10%** |

**Q12a) is it appropriate to prescribe the maximum period of office for either adoption or fostering panel membership?**

There were 116 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 22 | 8 | 12 | 0 | 1 | 1 | 2 | 2 | **48** | **41%** |
| **No** | 21 | 9 | 4 | 2 | 0 | 2 | 2 | 2 | **42** | **36%** |
| **Not Sure** | 7 | 5 | 5 | 1 | 0 | 3 | 4 | 1 | **26** | **23%** |

**Q12b) Or should it be for each fostering service/adoption agency to satisfy themselves that the panel member's performance is satisfactory?**

There were 113 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 38 | 17 | 11 | 1 | 0 | 5 | 7 | 3 | **82** | **72%** |
| **No** | 9 | 2 | 2 | 1 | 1 | 1 | 1 | 2 | **19** | **17%** |
| **Not Sure** | 2 | 3 | 5 | 0 | 0 | 1 | 0 | 1 | **12** | **11%** |

**Q13a) Should we prescribe in regulations that the chair of an adoption or fostering panel is independent of the adoption agency/fostering service?**

There were 118 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 45 | 20 | 21 | 3 | 1 | 5 | 8 | 6 | **109** | **92%** |
| **No** | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | **4** | **4%** |
| **Not Sure** | 3 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | **5** | **4%** |

**Q13b) Should we prescribe in regulations that the vice chair is also independent of the adoption agency/fostering service?**

There were 116 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 15 | 13 | 11 | 0 | 1 | 3 | 6 | 5 | **54** | **46%** |
| **No** | 28 | 7 | 5 | 3 | 0 | 1 | 2 | 0 | **46** | **40%** |
| **Not Sure** | 7 | 2 | 4 | 0 | 0 | 2 | 0 | 1 | **16** | **14%** |

**Q14a) Do you agree that more than one vice chair may be appointed if the fostering service/adoption agency wish?**

There were 118 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 39 | 20 | 19 | 2 | 1 | 5 | 7 | 5 | **98** | **83%** |
| **No** | 6 | 1 | 1 | 1 | 0 | 1 | 1 | 1 | **12** | **10%** |
| **Not Sure** | 5 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | **8** | **7%** |

**Q14b) If so, should there be a maximum number of vice chairs?**

There were 110 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 31 | 15 | 20 | 2 | 1 | 4 | 6 | 4 | **83** | **76%** |
| **No** | 10 | 2 | 1 | 1 | 0 | 2 | 1 | 1 | **18** | **16%** |
| **Not Sure** | 3 | 4 | 0 | 0 | 0 | 0 | 1 | 1 | **9** | **8%** |

**Q14c) Should we prescribe in regulations that more than one vice chair may be appointed if the adoption agency/fostering service so wish?**

There were 106 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 34 | 19 | 17 | 1 | 1 | 1 | 7 | 5 | **85** | **80%** |
| **No** | 5 | 2 | 2 | 1 | 0 | 2 | 0 | 1 | **13** | **12%** |
| **Not Sure** | 7 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **8** | **8%** |

**Q15 The guidance clarifies that foster children should enjoy the same opportunities as their peers to have a fulfilled childhood, stay over with friends and take part in school trips and family holidays. This government is clear that in order to achieve this the foster carer must be able to take day to day decisions about the child as any parent would. What decisions can be taken by the foster carer and where parental or local authority permission must be sought needs to be understood by all as part of care planning. Is there more we can do either in guidance or regulations to further clarify this position?**

Text Question only.

**Q16 Should local authority foster carers be exempt from being required to register with Ofsted on the early years register and deliver the Early Years Foundation Stage (in addition to being registered as a foster carer), in order to provide childcare on a short-term basis for a looked after child aged 5 or under who is placed with another foster carer?**

There were 69 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 28 | 15 | 0 | 2 | 1 | 3 | 4 | 2 | **55** | **80%** |
| **No** | 0 | 4 | 0 | 1 | 0 | 1 | 0 | 2 | **8** | **11%** |
| **Not Sure** | 1 | 1 | 2 | 0 | 0 | 0 | 1 | 1 | **6** | **9%** |

**Q17 Should local authority foster carers be exempt from being required to register with Ofsted on the general childcare register (in addition to being registered as a foster carer) in order to provide childcare on a short-term basis for a looked after child aged 6 or 7 who is placed with another foster carer?**

There were 69 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 28 | 16 | 1 | 2 | 1 | 2 | 3 | 2 | **55** | **80%** |
| **No** | 2 | 3 | 0 | 1 | 0 | 1 | 0 | 2 | **9** | **13%** |
| **Not Sure** | 1 | 1 | 1 | 0 | 0 | 0 | 1 | 1 | **5** | **7%** |

**Q18 Should there be any restrictions on the scope of any exemption to register.  For example, a limit on the number of days a foster carer can provide child care to a looked after child placed with another foster carer without registering as a childminder?**

There were 66 responses to this question.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LA** | **Fostering** | **Adoption** | **Children's Residential Care** | **Birth parent/ family** | **Professional Body/ Association** | **Other professional (e.g. teacher, social worker, GP)** | **Other** | **Total** | |
| **Yes** | 8 | 3 | 0 | 1 | 1 | 0 | 1 | 2 | **16** | **24%** |
| **No** | 20 | 11 | 1 | 1 | 0 | 2 | 2 | 2 | **39** | **59%** |
| **Not Sure** | 3 | 3 | 1 | 1 | 0 | 1 | 1 | 1 | **11** | **17%** |

**Q19 Please use this space for any other comments you would like to make.**

Text Question only.

1. ‘connected person’ in the Care Planning and Case Review Regulations 2010 [↑](#footnote-ref-1)
2. The Children (Secure Accommodation) Regulations 1991 [↑](#footnote-ref-2)
3. A local authority foster carer includes a foster carer who has been approved by an independent fostering provider. It does not include private fostering. [↑](#footnote-ref-3)