

DRAFT STATUTORY INSTRUMENTS

2013 No. 000

CHILDREN AND YOUNG PERSONS, ENGLAND

The Care Planning, Placement and Case Review and Fostering
Services (England) (Miscellaneous Amendments) Regulations
2013

<i>Made</i>	- - - -	2013
<i>Laid before Parliament</i>		2013
<i>Coming into force</i>	- -	2013

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 22C(11), 26(1) and (2), 31A(3) and 104(4) of, and paragraphs 12E and 12F of Schedule 2 to, the Children Act 1989⁽¹⁾, and sections 22(7)(c) and 118(5) and (6) of the Care Standards Act 2000⁽²⁾.

In accordance with section 22(9) of the Care Standards Act 2000 the Secretary of State has consulted with such persons as were considered appropriate.

Citation and commencement

1. These Regulations may be cited as the Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013 and come into force on [] 2013.

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

2. The Care Planning, Placement and Case Review (England) Regulations 2010⁽³⁾ are amended as follows.

⁽¹⁾ 1989 c.41. Section 22C was inserted by section 8(1) of the Children and Young Persons Act 2008 (c.23) (“the 2008 Act”); section 26(1) was amended by section 39 of, and paragraphs 1 and 16(1) and (2) of Schedule 3 to, the 2008 Act and section 26(2) was amended by section 118(1)(a) of the 2002 Act and by section 10(3)(a) of the 2008 Act; [section 31A was inserted by section 121(2) of the 2002 Act;] [section 59(2) was amended by sections 8 and 39 of, and Schedule 4 to, the 2008 Act and section 59(3A) was inserted by paragraph 2(6) of Schedule 1 to the 2008 Act;] section 104(4) was amended by section 39 of, and Schedules 3 and 4 to, the 2008 Act; paragraphs 12E and 12F of Schedule 2 were inserted by paragraph 4 of Schedule 1 to the 2008 Act. For the definition of “prescribed” see section 105(1) of the Children Act 1989.

⁽²⁾ 2000 c.14. For the definitions of “prescribed” and “regulations” see section 121(1).

⁽³⁾ S.I. 2010/959, amended by S.I. 2011/581.

3. After regulation 25 insert—

“Temporary approval of prospective adopter as foster parent”

25A.—(1) Where the responsible authority is satisfied that—

- (a) the most appropriate placement for C is with a person who is not approved as a local authority foster parent, but who is an approved prospective adopter, and
- (b) it is in C’s best interests to be placed with that person,

the responsible authority may approve that person as a local authority foster parent in relation to C for a temporary period (“temporary approval period”) provided that the responsible authority first comply with the requirements of paragraph (2).

(2) Before approving an approved prospective adopter as a local authority foster parent under paragraph (1), the responsible authority must—

- (a) assess the suitability of that person to care for C as a foster parent, and
- (b) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the proposed arrangements will safeguard and promote C’s welfare and meet C’s needs set out in the care plan.

(3) The temporary approval period expires—

- (a) on C’s placement with the approved prospective adopter being terminated by the responsible authority,
- (b) on the approved prospective adopter’s approval as a prospective adopter being terminated,
- (c) on the approved prospective adopter being approved as a foster parent in accordance with the Fostering Services Regulations,
- (d) if the approved prospective adopter gives written notice to the responsible authority that they no longer wish to be temporarily approved as a foster parent in relation to C, with effect from 28 days from the date on which the notice is received by the responsible authority, or
- (e) on C being placed for adoption with the approved prospective adopter in accordance with the Adoption and Children Act 2002⁽⁴⁾.

(4) In this regulation “approved prospective adopter” means a person who has been approved as suitable to adopt a child under the Adoption Agencies Regulations⁽⁵⁾ and whose approval has not been terminated.”

4. In paragraph 3 of Schedule 2—

- (a) omit paragraphs (3)(a) and (b),
- (b) for subparagraph (4) substitute—

“(4) The respective responsibilities of the responsible authority, C’s parents, and any person who is not C’s parent but who has parental responsibility for C.

(4A) Any delegation of authority to make decisions about C’s care and upbringing by the persons mentioned in paragraph (4) (as appropriate) to—

- (a) the responsible authority,
- (b) F, and
- (c) where C is placed in a children’s home, the appropriate person,

in relation to the matters set out in paragraph (4B), and identifying any matters about which the persons mentioned in (4) consider that C may make a decision.

⁽⁴⁾ 2002 c.38.

⁽⁵⁾ S.I. 2005/389 amended by S.I.s 2005/3482, 2007/603, 2009/1892, 2009/1895, 2010/1172, 2011/589, 2012/1410 and 2013/xxx].

- (4B) The matters referred to in paragraph (4A) are—
- (a) medical or dental treatment,
 - (b) education,
 - (c) leisure and home life,
 - (d) faith and religious observance,
 - (e) use of social media,
 - (f) any other matters which the persons mentioned in paragraph (4) consider appropriate.”.

Amendment of the Fostering Services (England) Regulations 2011

5. The Fostering Services (England) Regulations 2011⁽⁶⁾ are amended as follows.

6. In regulation 2(1)—

(1) in the appropriate places insert—

““adoption agency” has the meaning given in section 2(1) of the Adoption and Children Act 2002⁽⁷⁾”;

““working day” means any day other than—

- (a) a Saturday or a Sunday,
- (b) Christmas day or Good Friday, or
- (c) a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971⁽⁸⁾”;

(2) in the definition of “foster parent”, at the end insert “or regulation 25A of those Regulations (*temporary approval of prospective adopter*)”.

7. For paragraphs (1) to (4) of regulation 26 substitute—

“(1) Where a person (“X”) applies to become a foster parent, the fostering service provider must decide, in accordance with paragraphs (1A) to (2), whether to proceed to assess X’s suitability to become a foster parent.

(1A) Subject to paragraph (2), the fostering service provider—

- (a) must obtain the information specified in Part 1 of Schedule 3 relating to X and other members of X’s household and family,
- (b) where X has been a foster parent within the preceding 12 months and was approved as such by another fostering service provider, must request a written reference from that other fostering service provider,
- (c) except in a case where (b) applies and the other fostering service provider provides the reference requested, must interview at least two persons nominated by X to provide personal references for X, and prepare written reports of the interviews,
- (d) except where the fostering service provider is a local authority and X lives in the area of that authority, must consult, and take into account the views of, the local authority in whose area X lives,
- (e) may, where X was approved as a foster parent by another fostering service provider, request access to the relevant records compiled by that other fostering service provider in relation to X under regulations 30 and 31, and

⁽⁶⁾ S.I. 2011/581.

⁽⁷⁾ 2002 c.38.

⁽⁸⁾ 1971 c.80.

- (f) may, where X has been approved as a prospective adopter by an adoption agency, request access to the relevant records compiled by that adoption agency in relation to X.

(1B) The fostering service provider must, within 10 working days of obtaining all the information set out in paragraph (1A), decide whether to proceed to assess X's suitability to become a foster parent ('the pre-assessment decision') and notify X in writing of their decision—

- (a) in any case where their decision is to proceed to assess X's suitability to become a foster parent, setting out the procedure for that assessment,
- (b) in any case where their decision is not to proceed to assess X's suitability to become a foster parent, giving their reasons for that decision.

(2) Where—

- (a) having regard to any information obtained under paragraph (1A), or any other information (except the information set out in paragraph (3)), the fostering service provider decides that X is not suitable to become a foster parent, or
- (b) X is not suitable to become a foster parent by virtue of paragraphs (5) to (7),

the fostering service provider must notify X in writing that X is not suitable to be a foster parent giving their reasons for that decision, notwithstanding that they may not have obtained all the information set out in paragraph (1A).

(3) In any case where the fostering service provider decide to proceed to assess X's suitability to become a foster parent, they must—

- (a) subject to paragraph (3A), obtain the information specified in Part 2 of Schedule 3 relating to X and other members of X's household and any other information they consider relevant,
- (b) consider whether X is suitable to be a foster parent and whether X's household is suitable for any child,
- (c) prepare a written report on X which includes the following matters—
 - (i) the information required by Schedule 3 and any other information the fostering service provider consider to be relevant,
 - (ii) the fostering service provider's assessment of X's suitability to be a foster parent, and
 - (iii) the fostering service provider's proposals about any terms of approval, and
- (d) notify X that the case is to be referred to the fostering panel, and give X a copy of the report prepared under subparagraph (c) inviting X to send any observations in writing to the fostering service provider within 10 working days beginning with the date on which the notification is sent.

(3A) Where, having made a decision under paragraph (2) to proceed to assess X's suitability to become a foster parent, the fostering service provider receives information in relation to the assessment of X and is of the opinion that X is unlikely to be considered suitable to become a foster parent, it may prepare a written report under paragraph (3)(c) notwithstanding that the fostering service provider may not have obtained all the information about X which may be required by this regulation.

(4) At the end of the 10 working days referred to in paragraph (3)(d) (or when X's observations are received, whichever is sooner), the fostering service provider must send—

- (a) the report prepared under paragraph (3)(c),
- (b) X's observations on that report, if any, and
- (c) any other relevant information obtained by the agency

to the fostering panel.”.

- (a) after paragraph (7)(a) insert—
 - “(aa) in any case where the fostering service provider propose only to revise the terms of the foster parent’s approval—
 - (i) provide a statement setting out whether the fostering service provider considers that the foster parent or members of the foster parent’s household (including any children placed there) may have additional support needs as a result of the proposed revision and, if so, how those needs will be met, and
 - (ii) request the foster parent’s agreement in writing to the proposed revision of terms,”
 - (b) in paragraph (9) at the beginning insert “Subject to paragraph (9A)”,
 - (c) after paragraph (9) insert—
 - “(9A) In a case falling within paragraph (7)(aa), where the fostering service provider receives the foster parent’s agreement in writing to the proposed revision of terms, the fostering service provider may proceed to make their decision, taking into account the statement referred to in paragraph (7)(aa)(i), notwithstanding that the period referred to in paragraph (7)(b) has not expired.” and
 - (d) in paragraph (12) after “(9)” insert “, (9A)”.
- 9.** In regulation 30(4) —
- (a) before “which must include” insert “or regulation 25A of those Regulations (*temporary approval of prospective adopter as foster parent*)”, and
 - (b) in subparagraph (b) after “regulation 24(2)” insert “or regulation 25A (as appropriate)”.
- 10.** In regulation 31(a) after “regulation 24” insert “or regulation 25A”.
- 11.** In regulation 32—
- (a) in paragraph (2) after “regulation 24” insert “or regulation 25A”,
 - (b) for paragraph (6) substitute—
 - “(6) A fostering service provider must provide access to their records compiled under regulation 30 or 31 in relation to a foster parent—
 - (a) to another fostering service provider within 10 working days of a request under regulation 26(1A)(e), or
 - (b) to an adoption agency within 5 working days of a request under regulation [30A(6)] of the Adoption Agencies Regulations 2005⁽⁹⁾.”
- 12.** For Schedule 3 substitute—

“SCHEDULE 3 Regulation 26(1A) and (3)

Information as to prospective foster parent (“X”) and other members of their household and family

PART 1

- 1.** Full name, address and date of birth.
- 2.** Details of health (supported by a medical report).
- 3.** Particulars of any other adult members of the household.

⁽⁹⁾ amended.

4. Particulars of the children in the family, whether or not members of the household, and any other children in the household.

5. Particulars of their accommodation.

6. The outcome of any request or application made by them or any other member of their household to foster or adopt children, or for registration as an early years provider or later years provider under Part 3 of the Childcare Act 2006, including particulars of any previous approval or refusal of approval relating to them or to any other member of the household.

7. If X has, in the preceding twelve months, been a foster parent approved by another fostering service provider, the name and address of that fostering service provider.

8. Names and addresses of two persons who will provide personal references for the prospective foster parent.

9. In relation to the prospective foster parent and any other member of his household who is aged 18 or over, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act).

10. Details of current, and any previous, marriage, civil partnership or similar relationship.

PART 2

11. Details of personality.

12. Religious persuasion, and capacity to care for a child from any particular religious persuasion.

13. Racial origin, cultural and linguistic background and capacity to care for a child from any particular origin or cultural or linguistic background.

14. Past and present employment or occupation, standard of living, leisure activities and interests.

15. Previous experience (if any) of caring for their own and other children.

16. Skills, competence and potential relevant to their capacity to care effectively for a child placed with them.”.

Transitional provisions

13.—• Where a placement plan has been prepared by the responsible authority in respect of a child in accordance with regulation 9 of the 2010 Regulations before the coming into force of these Regulations, the authority must ensure that the additional information required by paragraph 3 of Schedule 2 to the 2010 Regulations (as amended by these Regulations) is included in the placement plan as soon as reasonably practicable after the next review of the child’s case.

(1) In paragraph (1)—

- (a) “the 2010 Regulations” means the Care Planning, Placement and Case Review (England) Regulations 2010, and
- (b) “the next review of the child’s case” means the first review of the child’s case in accordance with Part 6 of the 2010 Regulations which takes place after the coming into force of these Regulations.

Date

Name
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on [] 2013.

They amend the Care Planning, Placement and Case Review (England) Regulations 2010 (“the CPPCRR”), which make provision about care planning for looked after children (i.e. children who are looked after by a local authority, whether or not they are in the care of the local authority by virtue of a care order).

They also amend the Fostering Services (England) Regulations 2011 (“the FSR”), which provide a regulatory framework for fostering service providers and make provision about matters including the approval of foster parents by fostering service providers.

They insert a new regulation into the CPPCRR which provides for a person who is approved as a prospective adopter under the Adoption Agencies Regulations 2005 to be temporarily approved as a local authority foster parent for a named looked after child. The effect of this amendment is that the child may be placed with that person, notwithstanding the person has not been fully approved as a local authority foster parent under the FSR, where the relevant LA consider that that is in the child’s best interests [*regulation 3*]. They make consequential changes to the FSR [*regulations 6(2), 9, 10 and 11*].

They amend paragraph 3 of Schedule 2 to the CPPCRR to require that a child’s placement plan (i.e. the plan prepared by the responsible local authority setting out how the placement, for example with a local authority foster parent, will contribute to meeting his needs) must set out the respective responsibilities of the child’s parents and anyone else who has parental responsibility for them, and the responsible local authority, and must identify any delegation of responsibility to make decisions about the child’s care and upbringing to the local authority, the foster parent, or the manager of the children’s home (as appropriate) [*regulation 4*].

They amend the process for foster parent assessment set out in the FSR, in particular by introducing a pre-assessment stage during which certain information is gathered about the prospective foster parent, and during which the prospective foster parent may be rejected if they are considered unsuitable, without the right to make written representations to the fostering service provider or to have their case reviewed under the Independent Review Mechanism. They also make changes to the information which the fostering service provider may, or must, obtain during this pre-assessment stage. In relation to the assessment stage, they provide for the fostering service provider to produce a short form report on the applicant’s suitability if it becomes apparent during the assessment process that he is not suitable to become a foster parent [*regulation 7 and 12*].

They amend the FSR to enable the fostering service provider and an approved foster parent to agree a change in the foster parent’s terms of approval [*regulation 8*] without delay.