



Department  
for Education

# **Out of authority placement of looked- after children**

**Supplement to The Children Act 1989  
Volume 2: care planning, placement and  
case review guidance**

**July 2014**

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## Key Terms

*Appropriate person* – is defined in Regulation 2 of the Care Planning Regulations 2010.

*Area authority* - The local authority for the area in which the child is placed or is to be placed where this is different from the responsible authority.

*Connected person* - Regulation 24 of the Care Planning Regulations defines a connected person as a relative, friend or other person connected with the child.

*Distant placement* - Regulation 11(5) as amended defines a distant placement as meaning “a placement outside the area of the responsible authority and not within the area of any adjoining local authority”. Distant placements must be approved by the responsible authority’s DCS.

*Nominated officer* – A senior officer of the responsible authority, nominated in writing by the DCS, for the purposes of approving placement decisions made under the Care Planning Regulations.

*Placement provider* – A foster carer; registered person for a children’s home; or the person responsible for the child’s accommodation where they are placed in other arrangements. Connected persons may also be placement providers, as are parents, if the child is placed under Part 4, Chapter 1 of the Care Planning Regulations.

*Placement out of the authority’s area* – A placement out of the authority’s area is one that is a placement in foster care, a children’s home, or in “other arrangements” located outside the boundary of the responsible authority. An out of authority placement may be in an adjoining local authority’s area or it may be a ‘distant placement’.

*Responsible authority* – The local authority which looks after the child.

# Summary

## About this guidance

This statutory guidance supplements and should be read alongside, The Children Act 1989 Volume 2: Care Planning, Placement and Case Review Guidance. It is issued as guidance under Section 7 of the Local Authority Social Services Act 1970 which requires local authorities to act under the general guidance of the Secretary of State in the exercise of their social services functions. This guidance should be complied with by local authorities when exercising these functions, unless there are exceptional reasons why this is not possible.

## What legislation does this guidance refer to?

- The Children Act 1989; and
- The Care Planning, Placement and Case Review (England) Regulations 2010 (as amended by the Children's Homes and Looked-After Children (Miscellaneous Amendments) (England) Regulations 2013).

## Who is this guidance for?

This guidance is for:

- senior managers responsible for local authority children's services;
- frontline managers with responsibilities for looked-after children;
- children's services social workers;
- managers and staff of services for care leavers;
- lead members in local authorities;
- commissioners of placements and other services for looked-after children; and
- Virtual School Heads.

This guidance is also relevant to children's services partner agencies with responsibilities for supporting looked-after children – including professionals in schools, health services and youth justice services.

## Main points

Amendments to the Care Planning, Placement and Case Review (England) Regulations 2010 (the "Care Planning Regulations") came into force on 27 January 2014. These create new requirements for local authorities making distant placements to consult with

children's services in the area of placement, and for the Director of Children's Services (DCS) of the responsible authority to approve these placements.

These duties should be considered in the context of the established duty for a local authority to secure sufficient accommodation to meet the needs of their looked-after children (the "sufficiency duty") in accordance with Section 22G of the Children Act 1989 and the wider requirements of Section 22 of the Children Act in relation to placements.

Every out of authority placement will require effective planning, engagement and information sharing with services likely to be responsible for meeting the child's needs. The responsible authority will need to be confident about the support that the child can expect within the area of placement. In particular the responsible authority should confirm how the child will be effectively safeguarded and how they will access the services they need. The requirement for local authorities to consult with children's services in the area of placement ("the area authority") will assist the responsible authority in deciding whether a placement is appropriate and provides the child with the necessary support from local services, including from education and health services.

Throughout this document, the term out of area placement is used to refer to placements located outside the boundary of the responsible authority. A distant placement is an out of area placement that is not within the area of any adjoining local authority.

Finally, the principles of effective planning that apply when considering out of authority placements in England apply equally to any placement by an English local authority in Wales.

## Introduction

1.1 The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013 came into force in January 2014. These Regulations amended the Care Planning Regulations. The main changes introduce requirements for local authorities to consult and share information before placing children in distant placements and for the Director of Children's Services (DCS) to give approval of these placements. These changes reinforce local authorities' responsibilities as corporate parents for looked-after children to provide high quality care and support.

1.2 There will be circumstances where a distant placement will be the most suitable for a child, such as where the child concerned has complex treatment needs that cannot be met by services within the area of the responsible authority. There will also be children who require an out of authority placement to ensure they can be effectively safeguarded. Such placements will require effective planning, engagement and information sharing with the services likely to be responsible for meeting the child's needs in the future.

1.3 The general duties of local authorities towards looked-after children under Section 22 of the Children Act apply to all placements, including those that are out of authority. There are however a number of specific factors that must be taken into account when decisions are made to place the child out of the area of the responsible authority, but still within England and Wales **[regulations 11 and 12]**.

## Placement process

2.1 Under the amended regulations a decision to place a child outside the area of the responsible authority must be approved by a nominated officer, or, if that placement is a distant one, by the DCS **[regulation 11 (1)(a) or (b)]**. The requirement to obtain the approval of the nominated officer, or DCS for distant placements, does not apply where the placement is with the parent, a connected person or a foster carer approved by the responsible authority **[regulation 11(4)]**.

2.2 **Regulation 11(2)(d)(ii)**, as amended, requires the responsible authority to consult with the area authority when they are considering making a distant placement, in good time to enable a thorough assessment of appropriateness.<sup>1</sup> Annex 1 suggests information that might be discussed when a responsible authority consults the area authority about plans to place a child in a distant placement. This does not mean the area authority has a veto over the responsible authority's placement decisions.

2.3 The child's named Independent Reviewing Officer (IRO) must be consulted before any final decision is made about making an out of authority placement, whether distant or not, to enable the IRO to discuss the proposed arrangements with the child. The child's

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<sup>1</sup> The Children's Homes and Looked After Children (Miscellaneous Amendments) (England) Regulations 2013 – Part 3

wishes and feelings should be taken into account, and where appropriate the child's relatives or parents should be consulted.

2.4 Where a responsible authority is considering a placement in a children's home it should take into account the information in the home's Statement of Purpose. It should ask for a copy of the home's location assessment which should include details of the home's safeguarding arrangements, including any measures taken by the home to manage safeguarding concerns arising from the neighbourhood where the home is located.<sup>2</sup>

2.5 In making a judgement about the suitability of an out of authority placement for a child, the responsible authority should assess the arrangements which it will need to put in place to enable the child to access services such as primary and secondary health care.

2.6 Where the child will require specialist health services such as CAMHS, the Clinical Commissioning Group (CCG) (local health board in Wales) that commissions secondary healthcare in the area authority should be consulted, so the responsible authority can establish whether the placement is appropriate and able to meet the child's needs.<sup>3</sup> The designated nurse for looked-after children in the area authority will also be a valuable source of advice and information.

2.7 Similarly, the Virtual School Head for looked-after children in the area authority, (Looked After Children Education Co-ordinators (LACE) in Wales) should be able to advise about access to school support. For children vulnerable to exploitation and abuse, children's services in the area authority will be an important source of intelligence and information about local arrangements for safeguarding children.

2.8 The responsible authority must also make sure that the appropriate persons and services in the area authority are notified **[regulation 13]**.<sup>4</sup>

## Emergency Placements

2.9 An emergency placement occurs when a placement is necessary without any forewarning. This could occur when a placement must be arranged urgently to protect a child for example from sexual exploitation or gang involvement; if a placement is made

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<sup>2</sup> Children's Homes Regulations – 31(1A) and (1B)

<sup>3</sup> [Statutory Guidance on Promoting the Health and Well-being of Looked After Children Department of Health 2009 \(under revision\)](#) emphasises the need for local authorities to have agreed mechanisms with CCGs to ensure guidance on responsibility for commissioning health care is followed when making placement decisions and to resolve any funding disputes that may arise where children are placed in another local authority/CCG area. Further information about the responsibility for commissioning secondary health care for looked-after children within the NHS can be found in: [Who Pays? Determining responsibility for payments to providers August 2013. The joint DH/Welsh Govt. commissioning protocol](#) may be relevant also.

<sup>4</sup> Refer to [The Children Act 1989 Volume 2: Care Planning, Placement and Case Review Guidance](#); 3.48-3.56.

out of hours by the emergency duty team; or when a placement must be made immediately (on the same day) because of the breakdown of the child's current placement. Emergency placements may also be required at very short notice when a child becomes looked-after because they have been remanded by the youth court.<sup>5</sup>

2.10 In such circumstances, it will not be possible to complete all the actions set out in regulation 11(2). However, as a minimum, the nominated officer or the DCS (for distant placements), must be satisfied of the following before approving a decision:

- the child's wishes and feelings must have been ascertained and given due consideration **[regulation 9(1)(b)(i)]**; and
- the placement is the most appropriate placement available consistent with the care plan **[regulation 11(2)(b)]**.

2.11 The remaining requirements to notify/consult the area authority, and provide them with the child's care plan and consult the child's relatives and inform the IRO must be undertaken within five working days **[regulations 9(1)(b)(ii) 11(2)(c) and (d)]**.

2.12 This is to avoid the child remaining in an unsuitable placement that does not meet his or her needs or to avoid difficulties in bringing the child back to a more suitable placement within or closer to the responsible authority.

2.13 The requirement to obtain approval of the nominated officer, or the DCS for distant placements, does not apply where the placement out of area is with a local authority foster carer who is either approved by the responsible authority or who is a connected person.

## Placements in Wales

2.14 The Welsh Government is concerned about the high number of children from England placed in out of authority placements in Wales. The evidence suggests that many of these placements lack effective planning and information sharing to determine the availability of local education, health, social and other services to meet the child's needs.

2.15 In Wales, the Welsh Government has developed a protocol for notifying the local authority and the local health board when a child has been placed there from outside the area, and again when the placement ends. This protocol is attached at **Annex 2**.

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<sup>5</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012 ss. 92&93; Children Act 1989 s.21

# Annex 1: Suggested information for discussion between authorities when planning distant placements<sup>6</sup>

## Basic information about the child

- Name and date of birth.
- Legal status (subject of a care order (s.31 Children Act); voluntarily accommodated (s.20) remanded (s. 21).
- Number of previous placements – outline reasons for child leaving earlier placements.

## Plans for the child's care

- Details of the assessment of the child's needs, with information about the child's wishes and feelings, with reasons the planned placement is suitable.
- Duration of placement (emergency/short-term/long-term/permanent). If it is not possible to assess the intended duration of placement – reasons for this and when this information will be available.
- Arrangements for contact.
- Details of who will be responsible for implementing plans for the child's day to day care (the 'placement plan') including details of arrangements for delegating responsibilities to the child's carer(s).
- Details of any plans to offer the child care leaving support (as an 'eligible child') during the anticipated duration of the placement.
- Contingency arrangements if the plan to support the child in the current placement does not succeed.

## Services to support the child

- Details of plans to meet the child's educational needs – information about the school the child is expected to attend; details of plans for supporting the child if a school has not been identified.
- Information about plans to meet the child's health needs, e.g. whether the child requires secondary health care (including mental health and other specialist health care), including details about the CCG acting as "responsible commissioner."<sup>7</sup>
- Details of any youth justice supervision order that would need to be overseen by youth justice services in the area authority<sup>8</sup>.

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<sup>6</sup> This information could be summarised in a written format and used as the basis for notifying the area authority **[Regulation 13]**

<sup>7</sup> [Who Pays? Determining responsibility for payments to providers August 2013](#)

Local authorities have a common interest in supporting high standards of corporate parenting for all looked-after children.

When approached for consultation about potential placements, area authorities should be able to offer a professional view about the benefits of a planned placement, the benefits of living in the neighbourhood where the placement is located and the potential for local services to respond appropriately to the needs of the child concerned (see 4.7 above).

Local authorities could also advise about other sources of information to assist social workers and commissioners in determining whether a distant out of authority placement is the most appropriate for the child concerned (e.g. the Virtual School Head or the Designated Nurse for looked-after children).

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<sup>8</sup> See - [The National Protocol for Case Responsibility \(England only\)](#) to promote consistent practice with regard to the responsibilities of youth offending teams (YOTs) concerning contact with young people from outside a YOT area

## Annex 2: Welsh Model Out of Area Notification Protocol

*(This protocol was developed by the Welsh Government in conjunction with the children's residential care sector in Wales.)*

Where a child who is looked-after is placed at distance the responsible authority has a statutory duty to notify the local authority and the health care provider, in the area in which the child is to be placed, of the arrangements for placement prior to placement and no later than 10 days thereafter.

Similarly, where a child is provided with accommodation by any Local Health Board, Special Health Authority, Primary Care Trust, NHS Trust or by a local authority in exercise of education functions for three months or more or with the intention of the placement lasting for this time the Accommodating Authority has a duty to notify the appropriate officer of the responsible authority<sup>9</sup>.

Where a child is provided with accommodation in any care home or independent hospital for three months or more or with the intention of the placement lasting for this time the residential setting has a statutory duty to notify the lead Director of Social Services in the area in which the establishment is situated.

Notification should be sent to the Director of Social Services in the local authority in which the home is situated.

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<sup>9</sup> The responsible authority means: The local authority within whose area the child was ordinary resident immediately before being accommodated; or where it appears that the child was not ordinarily resident within the area of any local authority, the local authority within whose area the accommodation is situated.

The appropriate officer of the responsible authority is: the Director for social services in relation to a local authority in Wales; and the Director of Children's Services in relation to a local authority in England.

## Out of Area Notification Protocol Form for use by children's homes in Wales

Name of child	
Date of Birth	
Legal Status	
Previous address (family address)	
Current address (name and address of children's home)	
Type of placement	
Date placed	
Placing Authority (local authority / health)	
Contact Details (e.g. looked-after child social worker / lead professional)	
Name and address of child's GP	
Date placement ended	

**Signed:**

**Name:**

**Position:**

**Date:**



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