

CARE PLANNING FOR LOOKED AFTER CHILDREN: SUMMARIES of KEY DOCUMENTS

Care Planning, Placements and Case Review regulations

The Care Planning, Placements and Case Review regulations bring together in a single set of regulations all the duties on local authorities for making care plans, ensuring that a child or young person is provided with accommodation which meets his or her needs and a review conducted of the child's case within specified timescales. These activities are at the heart of effective corporate parenting.

Care planning

Regulations require explicitly for the first time that the content of a care plan for an accommodated child is the same as that for a child subject to a section 31a order (regulations 4 and 5) and describe the content of the care plan. Regulation 9 provides for a placement plan for each child, which replaces the foster placement agreement under the Fostering Services Regulations 2002. Regulation 8 concerns arrangements for contact with a child in care.

Placement duties under section 22 of the 1989 Act

New sections 22A to 22F, inserted into the 1989 Act by the Children and Young Persons Act 2008, re-enact the duties on local authorities to provide accommodation for children who are in their care and to maintain all looked after children in other respects, apart from the provision of accommodation. The duties and powers of local authorities to provide accommodation are under sections 20 and 21 of the 1989 Act (i.e. those who are 'voluntarily accommodated' or accommodated for their own protection or by virtue of an order made in criminal proceedings are unaffected by these new provisions).

The new section 22C outlines ways in which the responsible authority must perform its accommodation functions to ensure that the rehabilitation duty on local authorities is exercised first, followed by enabling a child or young person to be placed with a relative, friend or other connected person. It then sets out a further series of criteria which should be applied when considering a placement to an individual child or young person, including closeness to home, enabling continuity of education, enabling the child or young person to live with a sibling who is also looked after and ensuring suitability of accommodation if the child or young person is disabled (regulations 10-14).

Provision for different types of placement

Regulations 15 to 21 set out the requirements for placing a child in care at home with parents, including provision for placement before the assessment is completed; while regulations 22 to 28 are concerned with placement with a local authority foster parent and placement in other arrangements under section 22(6)(d) of the 1989 Act.

Visits

Regulations 29 to 33 describe the duties of responsible authorities to visit the child or young person and prescribe different frequency of visits depending on the status of the

placement. Regulation 33 sets out the requirement for advice, support and assistance to be available to the child or young person between visits.

Reviews of the child's case

Regulations 34 to 40 prescribe the arrangements for reviewing the child's case, including the statutory minimum frequency, how the review should be conducted and how it should be recorded, including who should be provided with copies of the report.

Arrangements for ceasing to look after a child

Regulation 41 specifies the requirement for a care plan to be drawn up to ensure that services are in place to support an accommodated child who is ceasing to be looked after. Regulations 42 to 46 cover the arrangements where an eligible child is ceasing to be looked after.

Independent Reviewing Officers

Regulations 48 to 49 set out the additional functions of the independent reviewing officer (IRO) including their role in assisting the child or young person to obtain legal advice or bring legal proceedings on his or her behalf.

Independent Visitors

Section 23ZB(1) of the 1989 Act, as amended by the Children and Young Persons Act 2008, widens the definition of circumstances in which an Independent Visitor may be appointed for a child. Regulation 49 sets out the way in which the definition of 'independent' is to be understood in this context.

Short breaks

Regulation 50 sets out the application of the regulations to short break care. It provides for some easements in the application of the Care Planning, Placement and Case Review Regulations in recognition of the continuing role of birth parents in exercising their parental responsibilities for their child.

Putting Care into Practice: Draft Statutory Guidance for local authorities on care planning, placement and case review for looked after children

The aim of the draft statutory guidance is to bring together all existing guidance related to care planning, placements and case review into a single comprehensive document that sets out in a streamlined way guidance for practitioners and managers of a local authority's core duties in relation to delivering effective assessment, care planning, placement decisions and case reviews for looked after children. The guidance therefore brings together relevant elements of existing statutory guidance, with guidance on the new provisions inserted by section 8 of the Children and Young Persons Act 2008 and the Care Planning, Placement and Case Review Regulations.

The Care Plan- The Guidance sets out the rationale for the preparation of a written care plan for children in care and for all other children who are looked after, and sets out in more detail what the care plan should contain. It sets out the purpose of care planning for children in care and those who are accommodated and specifies the content of the plan. It also addresses permanence planning in the context of care planning duties to ensure that the child's need for a secure attachment is kept in focus.

Health- It draws out and clarifies local authority and Primary Care Trusts' responsibility with regards to supporting and promoting the health of looked after children. The guidance is consistent with the statutory guidance on promoting the health and well-being of looked after children, in particular the requirements for carrying out regular health assessments, what the health assessment should include, the requirement for a written health plan which should form part of the child's care plan, and the requirement to regularly review this.

Education- The guidance also sets out the priority that local authorities must give to the education implications of any placement and planning decisions that they make with regard to looked after children. It specifies that the care plan must include a record of the child's education and training, 'the personal education plan' (PEP), as an integral part of the care plan. The guidance sets out how the different parts of the authority understand how they contribute to the way the authority as a whole meets its statutory duty to promote the education of looked after children, setting out different officers' and practitioners' roles. It also sets out, for looked after children who are in school years 10 and 11 (Key Stage 4), the particular efforts that authorities should take to ensure that a child's education is not disrupted as a result of a placement move.

Planning and Contact- The guidance describes local authorities' responsibilities with regard to contact for looked after children in the context of wider family and social relationships. It also further expands on the specific requirements on the local authority in relation to the refusal of contact, departure from the terms of an order made under section 34 of the Children Act 1989 and notification of variation or suspension of contact arrangements made under a section 34 order. It highlights that contact arrangements where a child is authorised to be placed for adoption are made in accordance with section 26 of the Adoption and Children Act 2002.

Independent Visitors - The Guidance provides further detail on section 23ZB of the Children Act 1989 governing the appointment and function of independent visitors. In

particular, it sets out further detail on the impact of section 23ZB of the Children Act 1989, in broadening the set of factors that authorities should take into account when considering which children might benefit from an independent visitor and addresses such issues as the selection of Independent Visitors and their role and function.

Placement Decisions - The guidance sets out local authorities' new duties under section 22C of the Children Act, about the way in which decisions about placements are to be made, and includes within this the specific considerations that responsible authority must have regard to. These are:

- the general rehabilitation duty
- preference to a placement a friend or relative or other person connected with the child and who is also a local authority foster carer;
- after which to consider placing with a local authority foster carer who has no previous relationship with the child

Out of area placements - The guidance provides further detail on regulation 11, setting out the factors that local authorities have to take into account when making a decision to place a child 'out of the responsible authorities area'. It includes within this, those circumstances in which a placement out of the area could be the most suitable for a child

Placement of a child in care back with parents - The Guidance gives further clarification to the duties set out in regulations 15 to 21 when a child on a care order (or an interim care order) is being placed with a parent, other person with parental responsibility who is not a parent, or in the case of a child subject to a care order a person in whose favour a residence order was made before a care order was made.

Placement of a child with Local Authority Foster Parents (LAFP) - a further explanation of regulation 23, the conditions to be complied with before placing a child with a local authority foster parent. It sets out those factors that responsible authorities must take into account in order to choose the most suitable placement for a child, alongside setting out the conditions that must be complied with before a child is placed with a local authority foster carer.

Temporary Approval of a connected person - It explains what is meant by a 'connected person' as set out in section 22C (6)(a) as being a 'relative, friend or other person' connected with the child. It also clarifies that temporary approval should only be used if the need for a placement with a 'connected' person is urgent and it is not possible to fulfil all the requirements of the Fostering Services Regulations 2002 to approve the connected person as a local authority foster parent.

Placement of a looked after children in 'other arrangements' - responsible authorities duties with regard to a child being placed in other arrangements under section 22(6)(d) of the Children Act 1989, such as hostel provision or supported lodgings. It sets out the process that an authority must follow before placing a child in such arrangements; including those factors that they must take into account as part of their planning to ensure that the planned move will meet the child's needs.

Placement plan - The guidance sets out further clarification on regulation 9, the requirement for a placement plan to be drawn up before a child is placed by a responsible authority. The guidance gives clarity to the purpose of the placement plan;

setting out in detail how the placement plan is intended to contribute to meeting the child's needs as set out in the care plan.

Visits - The guidance sets out further detail relating to the requirement for local authorities' visits to children who are looked after in regulations 29 to 33 (Part Five). The guidance sets the visits within the broader framework for supervising the child's placement and promoting their welfare. It sets out the requirements for supervision in relation to visits, the purpose of visits and highlights the requirement to provide a report of each visit.

System for reviews - The guidance sets out that authorities are required to have a written policy setting out how they will conduct reviews, and the factors that authorities must include within this, which includes;

- the appointment of an IRO;
- the full participation of children and their parents;
- a structured and co-ordinated approach;
- and the full participation of the child's carers, subject to the wishes and feelings of the child where appropriate.

Record of reviews - The Guidance sets out in further detail what the record of the review should contain, stressing that high quality recording of information obtained in a review is essential to ensure that practitioners involved with supporting the child can continue to meet their needs effectively.

Disagreements - The Guidance sets out that the IRO must advise staff at a senior level, if the responsible authority has failed to meet a looked after child's needs as a result of:

- failing to review the case in accordance with the regulations;
- failure to implement any of the decisions made at a review.

Short Breaks - The statutory guidance describes how responsible authorities should come to decisions about whether to provide short break accommodation under section 17(6) or section 20(4) of the 1989 Act. Some aspects of care planning and reviewing do not apply for children in a planned series of short term breaks, in order to have a proportionate response to the needs of the child and family where parents are able appropriately to discharge their parental responsibilities.

Looked after children within the youth justice system - The guidance sets out Local Authority's responsibilities in relation to care planning, placement and review for looked after children in contact with the youth justice services, including looked after children who are sentenced and children who become looked after by virtue of their contact with youth justice services such as children on remand to local authority accommodation. The guidance sets out how the care, planning, placement and case review duties are carried out for this group of looked after children.

It gives a greater priority to ensuring that there is clarity as to who is responsible for each element of the child's plan and the arrangements for communication and enforcement. It sets out clearly that the responsible authority **must** remain a presence in the child's life during the period of supervision by a YOT.

IRO Handbook

Section 25B of the Children Act 1989 (inserted by section 10(1) the Children and Young Persons Act 2008) created a new power for the Secretary of State to issue statutory guidance to Independent Reviewing Officers and their managers.

Legal definition

This guidance will replace the 2004 Independent Reviewing Officers Guidance and should be read in conjunction with the draft Care Planning, Placement and Case Review Regulations, which in turn revoke The Review of Children's Cases Regulations 1991.

What this Handbook does

This Guidance meets the commitment the Government gave during debate on the Children and Young Persons Act 2008 to produce statutory guidance addressed to each Independent Reviewing Officer (IRO) about how they should discharge their distinct responsibilities to looked after children.

What is new/has changed

Sections 25A-25C of the 1989 Act (which were inserted by section 10 of the 2008 Act) extend the responsibilities of the IRO from monitoring the performance by the local authority of their functions in relation to a child's **review** to monitoring the performance by the local authority of their functions in relation to a child's **case**. The intention is that the changes to the statutory framework will enable the IRO to have an effective independent oversight of the child's case and ensure that the child's interests are protected throughout the care planning process.

The amended 1989 Act and accompanying Regulations specify the duties of the LA to appoint an IRO and the circumstances in which the LA must consult with the IRO, the functions of the IRO both in relation to the reviewing and monitoring of each child's case and the actions that the IRO must take if the LA is failing to comply with the regulations or is in breach of its duties to the child in any material way, including making a referral to Cafcass.

A named IRO now has a statutory duty in relation to each looked after child (those under a care order and those looked after under a voluntary agreement), from shortly after the child first becomes looked after for the duration of the child's stay within the care system. The new role includes consulting with the child in relation to the current care plan at each review and at any time that there is a significant change that could have implications for the child's care plan. Care plans should usually only be changed at reviews and the IRO has the authority to determine when a review should be convened in the light of any significant change of circumstances.

Section 11 of the Children and Young Persons Act 2008 includes a power to confer the delivery of IRO services to a national body, outside the control of LAs, if, in the future, the measures to strengthen the IRO function do not contribute to a significant improvement in outcomes for looked after children.

Sufficiency Guidance

Section 22G of the Children Act 1989 (as inserted by the Children and Young Persons Act 2008) places a general duty on local authorities to take steps that secure sufficient accommodation to meet the needs of looked after children (“the sufficiency duty”). The aim of the draft statutory guidance is to provide clarification and further support for local authorities on the most effective way of meeting this duty, in order to improve outcomes for looked after children.

The Children Act 1989 already places on local authorities a number of duties that have strong links with the sufficiency duty:

- the general duty to provide a range and level of services appropriate to the needs of children in their local area (section 17);
- the duty to provide accommodation for children in need within their area who appear to them to require accommodation (in accordance with section 20 of that Act); and
- where a local authority makes arrangements to place a child who they are looking after, once it comes into force section 22 C(9) will require the placement to be such that the child is provided with accommodation within the local authority area unless this is not reasonably practicable.

There is therefore, an implicit assumption within these duties that the local authority **must ensure there is sufficient accommodation to meet needs locally**. Prior to introduction of sufficiency duty, there was no specific statutory duty on local authorities to **act strategically** to address gaps in provision and meet needs through diversity of provision.

The Statutory Guidance sets out core requirements for local authorities in relation to this, which involves:

- supporting and maintaining a diversity of provision to better meet the needs of looked after children;
- placing children within their local authority area where reasonably practicable;
- supporting the market to deliver more appropriate placements locally.

The purpose of the guidance is to encourage a ‘step change’ in commissioning practice, so that the:

- whole range of accommodation needs of looked after children are considered; and
- universal, targeted and specialist services are redesigned and configured to maximise outcomes for children and young people.

Clarification of sufficiency

The guidance clarifies what we understand by ‘sufficiency’. It states that accommodation should be sufficient not simply in relation to the numbers of beds that are provided but also in respect of the diversity and quality of provision available through Children’s Trust partners to support children and their carers, in line with needs identified through the assessment. Provision should also be available for children at risk of care or custody and include a whole system approach to early

intervention and prevention alongside more traditional services for looked after children.

Reasonably Practicable

Section 22G of the Children Act 1989 requires that local authorities show that they are taking steps at strategic level to secure accommodation **so far as reasonably practicable**. The Statutory Guidance therefore also provides clarification on this requirement. Local authorities should not assume, for instance, that it is 'not reasonably practicable' to secure appropriate accommodation because it is difficult to do so or because there is a lack of resources.

The Statutory Guidance provides that the new sufficiency duty will require local authorities to:

- be active in managing their market, e.g. developing new provision in response to emerging trends;
- have access to limited, surplus provision or planned standby accommodation – to accommodate emergency placements;
- be able to demonstrate how, through working with their Children's Trust partners, it has done all it can to secure sufficiency.

Role of Commissioning in meeting the Sufficiency Duty

The Guidance sets out key expectations regarding the standard of commissioning that local authorities and their partners are expected to practise to meet the sufficiency duty. These have been developed in conjunction with local commissioners and providers and include:

- the expectation that Authorities are actively engaged in the following strategic needs assessment to prepare for the sufficiency duty;
- market management – including resource analysis and workforce development;
- individual assessments – the importance of robust needs assessment to inform children's Care Plans and commissioning process;
- commissioning decisions – to be informed by strategic assessment, resource analysis, individual assessment, and child's views.

The Guidance also clarifies the 'techniques' that commissioners are required to consider in order to maximise outcomes, which include:

- the range of procurement and other commissioning mechanisms;
- evidence of effectiveness;
- performance management – based on needs and outcomes described in children's individual assessments;
- And being evidence based.