

PUTTING CARE INTO PRACTICE:

**Draft statutory guidance for local
authorities on care planning,
placement and case review for
looked after children**



department for
children, schools and families

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Introduction

1.1 The powers and duties of local authorities to children who are looked after by them are set out in the Children Act 1989 (“1989 Act”) as principally amended by the Children (Leaving Care) Act 2000, the Adoption and Children Act 2002 and the Children and Young Persons Act 2008, as well as the associated Regulations and guidance on the exercise of those functions. Practitioners and their managers will need to be familiar with the legislation, the associated Regulations and the statutory guidance.

1.2 This statutory guidance sets out how a responsible authority (which is the local authority that looks after a child) should carry out their responsibilities in relation to looked after children and care planning, placement and case reviews in order to ensure that they act as good corporate parents to all looked after children and enable them to achieve their potential in life.

Status of the guidance

1.3 The guidance is issued under section 7 of the Local Authority Social Services Act 1970. Local authorities are required to act in accordance with this guidance.

Definitions

1.4 References in this guidance to:

- ‘the Act’ are to sections of the Children Act 1989;
- ‘the regulations’ are to the Care Planning, Placement and Case Review regulations;
- ‘responsible authority’ is to the functions of the local authority under Part Three of the 1989 Act;
- a numbered section of Schedule is a reference to that section or Schedule in the 1989 Act.

The looked after child

1.5 A child is looked after by a local authority if the child is in their care by reason of a care order or is being provided with accommodation for more than 24 hours with the agreement of the parents or of the child if he is aged 16 or over (i.e. voluntary arrangements, section 22(1) and (2)).

1.6 Under voluntary arrangements the local authority does not have parental responsibility for the child but the authority must comply with the duties set out in the 1989 Act and comply with the appropriate Regulations. Although a care order gives the local authority parental responsibility for the child, any person who is a parent or guardian retains their parental responsibility and may continue to exercise it to the extent that their actions

are not incompatible with the care order (see section 2(8) and section 33(3)(b) of the 1989 Act). This reflects the intention underpinning the 1989 Act, that parents should be encouraged to exercise their responsibility for their child's welfare in a constructive way and that where compulsory intervention in the family is necessary it should, where possible, support rather than undermine the parental role. The 1989 Act places a strong emphasis on the local authority working in partnership with parents when undertaking their statutory functions.

1.7 Children who are placed away from home under an emergency protection order (EPO) where they are accommodated by or on behalf of the local authority are looked after children. So, too, are those children on remand to local authority accommodation or under supervision with a residence requirement requiring them to live in local authority accommodation; and those children in police protection or arrested and at the police's request accommodated by the local authority.

1.8 Section 22 of the 1989 Act sets out the general duty to safeguard and promote the child's welfare. This duty guides all activity by the local authority in relation to looked after children.

The Child's Wishes and Feelings

1.9 Before making any decision with respect to a child whom the local authority are looking after or proposing to look after, the authority must, so far as reasonably practicable, ascertain the wishes and feelings of the child in accordance with its duty under section 22(4) and in making any decision in relation to the child, take those wishes and feelings into consideration, having regard to the child's age and understanding (section 22(5)).

It is particularly important for children to feel that they are active participants and eng Contents

1.10 aged in the process when adults are trying to solve problems and make decisions about them. When plans are being made for the child's future, they are likely to feel less fearful if they understand what is happening and that they have been listened to from the beginning. Close involvement will make it more likely that they feel some ownership of what is happening and it may help them understand the purpose of services or other support being provided to them, their family and carer. Where a child or young person has difficulty in expressing their wishes and feelings about any decisions being made about them, consideration must be given to securing the support of an advocate.

1.11 There are further practical reasons for ascertaining children's wishes and feelings:

- many children have an understanding of what is causing their problems and what underlies their needs;
- they may have insight into what might or might not work in the context of their current circumstances and environment;

- they often know what sort of support they would most value and be able to access;
- engaging children helps to recognise their difficulties and develop their strengths and to help promote their resilience.

The UN Convention

1.12 Articles 12 and 13 of the UN Convention on the Rights of the Child reflect this duty. In particular Article 13 spells out the need to be creative in enabling children to express their views *'either orally, in writing or in print, in the form of art, or through any other media of the child's choice'*.

1.13 All the duties on local authorities set out in primary legislation, associated Regulations and reflected in the statutory guidance, depend on the exercise of professional judgement by social workers and other practitioners, informed by their direct engagement with children and young people.

1.14 The child and young person's views should be sought in discussion with the child, subject to their age and understanding (see section 22(4)(a) and (5)). The child's views as expressed should always be discussed, recorded and given due consideration before a placement decision is made and at every review meeting and at case conferences. The possibilities and options identified in the plan should be explained, discussed and if necessary, reassessed in the light of the child's views. The social worker should be aware and acknowledge that there may be good reasons why the child's views are different from those of his parents or the local authority. The more mature the child, the more fully he will be able to enter into discussion about the plans and proposals and participate in the decision making process. When older children are involved, and particularly in a case of self-referral, there may well be a different perception of the child or young person's needs and interests as seen by the child or young person and his parents. With young children, the social worker should be creative and imaginative in finding ways to communicate with the child and discover his feelings. All children need to be given information and appropriate explanations so that they are in a position to develop views and make choices.

Introduction to the Care Planning, Placements and Case Review regulations and guidance

2.1 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

2.2 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

2.3 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).

2.4 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

2.5 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

2.6 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

2.7 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

2.8 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

2.9 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

2.10 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

2.11 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.

Arrangements for looking after a child

Care Planning

3.1 Part Two of the Regulations sets out the arrangements which the responsible authority must make for looking after a child and the making of a care plan is central to these requirements. The care plan will contain information about how the child's current developmental needs will be met as well as the arrangements for the current and longer term care for the child. It ensures that there is a clear plan for the child's future to which everyone is working, including the team around the child, the child and, where appropriate, the family. There should be clarity in the care plan, particularly about the outcomes expected from services and other actions identified. This will support effective reviews which monitor the progress made towards meeting the short and long term goals for the child and their family.

3.2 Most children and young people who become looked after are already known to children's social care services. Many will therefore already have an up-to-date core assessment under the Framework for the Assessment of Children in Need and their Families (Department of Health et al, 2000) and

have either been subject to a plan for the provision of services under section 17 of the 1989 Act or been subject to a child protection plan. Unless there are good reasons for a change of direction, the care plan should complement and build on any existing plan for the child.

3.3 Proactive planning is therefore important and must begin before a child or young person starts to be looked after, to reduce the need for decision making and placements to happen in an emergency. This is necessary both to ensure that the most appropriate placement and services are sought to meet the child's needs and because it is important that the child or young person, the birth family and the carers are clear about the purpose of care or accommodation from the beginning of a placement. Where a child aged 16 or 17 is being accommodated, the care plan must be agreed between the responsible authority and the child.

The purpose of care planning

3.4 Care planning and reviews are about bringing together children and young people who are looked after, their families, carers and professionals, in order to plan for the care of the child or young person and to review that plan on a regular basis. Assessing the needs of children and young people and deciding how best to meet those needs is a fundamental part of social work with children and young people who are looked after. To do this effectively not only requires an understanding of the importance of planning, but also the procedural framework. The reasons for such a framework are threefold:

- to fulfil the requirement for accountability in the way in which the powers and duties are exercised;
- to ensure that children and their families and carers are treated with openness and honesty and understand the decisions that affect them;
- to give clarity about the allocation of responsibilities and tasks, in the context of shared parenting between parents, carers and the corporate parenting arrangements in the responsible authority.

3.5 Regulation 4(3) specifically refers to assessing the child or young person's needs as an important part of care planning. Most children and young people who start to be looked after will have been assessed under the Assessment Framework. Where there has not been a prior assessment before the child or young person starts to be looked after, a core assessment will be required in order to identify the child's developmental needs. The care plan will set out how these needs will be met by the responsible authority in the context of the parenting capacity and wider family and environmental factors.

The care plan for a child who is voluntarily accommodated

3.6 Regulation 4 requires the responsible authority to draw up a care plan for each child who is accommodated by them under section 20. The care plan must be drawn up before the child is first placed by the responsible

authority or if that is not practicable within 10 working days of the start of the first placement. The content of the care plan is set out in regulation 5 and Schedule 1 to the Regulations.

The court care plan

3.7 In the case of a child to whom section 31a applies, the court will set the timescale for the plan. The content of the plan will be the same as for a child accommodated under section 20 of the Children Act 1989 as they relate to the child's needs and how those needs are to be met, although additional elements arising from the legal proceedings will need to be included.

3.8 The care plan is a critical ingredient in the preparation of the local authority's application to the court for a care order because it explains how the proposed care order will be implemented in order to achieve the specific outcomes for the child. Before making a care order, courts have to be satisfied that the 'threshold criteria' at section 31(2) – significant harm – are satisfied. They will have regard to the 'welfare checklist' at section 1(3) but they will also have to address whether the order is in the best interests of the child (in accordance with section 1(1); and whether, in accordance with section 1(5), making an order will be better for the child than making no order. The decision of the court will often rely to a considerable extent on the details presented by the local authority to the court in the care plan.

3.9 Further guidance on the range of court orders set out in the 1989 Act is provided in The Children Act 1989, Guidance and Regulations, Volume 1 Court Orders, available at www.dcsf.gov.uk/everychildmatters/publications/documents/childrenactguidanceregulations.

The care planning process

4.1 A plan to meet the child or young person's needs may exist before a specific placement is considered; either because of the services provided to the child living in his family home, or because the child is moving from one planned placement to another. Where no plan exists the planning process must begin once a child in need has been identified as being likely to require accommodation. Contingency planning for the possible accommodation of a child while efforts continue to support the family and keep the child at home, may achieve a more successful and less disturbing transition for the child.

The core elements of the process are:

i) Inquiry

4.2 This requires working with the child or young person and his parents, other members of the family (and other involved adults) to obtain their wishes and views. It is at this stage that work to develop a partnership with parents must start, to encourage continuance of the parental role and to help the child and parents share in decision making. Patterns of working and attitudes

established now will in most cases influence all future work.

4.3 Collecting information about the child and his family is part of making enquiries. The level of consultation will depend on the circumstances of the individual case. This will involve approaching other involved professionals (e.g. GP, community child health doctor, school teacher, health visitor, police, child psychologist, etc.) and other individuals (e.g. relatives, family friends, etc.), as necessary.

4.4 Responsible authorities should seek to identify and consult with colleagues in other agencies when pre-placement enquiries are made and report back. The parents and the child or young person, if he is of sufficient age and understanding, should be informed of who is to be consulted and that the information gathered will be properly safeguarded. Existing carers, including foster parents, a head of a children's home, etc., should already be involved in day to day planning for the child, but a specific opportunity to contribute to formal planning or review considerations should be arranged.

ii) Consultation

4.5 It is essential when planning a placement to consult all those concerned with the child or young person from the outset. The need for consultation should be explained to the parents and the child. The responsible authority should co-ordinate the involvement of all relevant agencies and all the individuals who are significant. Section 22(4) and (5) provides that, before making any decision with respect to a child whom they are looking after or propose to look after or accommodate, the responsible authority should obtain and take account of the wishes and feelings of:

- (a) the child (having regard to their age and understanding);
- (b) their parents;
- (c) any person who is not a parent of theirs but who has parental responsibility for the child; and
- (d) any other person whose wishes and feelings the authority consider to be relevant in the child's life and the child;

so that a plan is drawn up which meets the child's individual needs.

iii) Assessment

4.6 The information gathered together in the inquiry process can be used to make a full assessment of the child's needs in relation to safeguarding and promoting his welfare, taking into account any services the responsible authority or other agencies may already be providing. The assessment should link in to other assessment processes: the 1989 Act provides that a responsible authority may assess a child's needs for the purposes of the 1989 Act at the same time as any assessment under any other relevant legislation.

4.7 Most children and young people who start to be looked after will have been assessed under the Framework for the Assessment of Children in Need and their Families (DH et al 2000). Where a child has not been assessed before becoming looked after, a core assessment will be required in order to

inform the care plan about how the child's developmental needs will be met by the corporate parent in the context of birth parents' capacity and wider family and environmental factors.

4.8 In assessing the need for local authority provision of services, due account needs to be taken of the particular needs of the child, i.e. health, disability, education, religious persuasion, racial origin, cultural and linguistic background, the degree (if any) to which these needs are being met by existing services to the family or child, and which agencies' services are best suited to the child's needs.

4.9 The planning process will also:

- determine what objectives have to be met to safeguard and promote the child's welfare;
- consider fully the services that might be made available to meet those objectives and identify their expected outcomes;
- make decisions only after full consultation with the child, the parents and other agencies and individuals with a legitimate interest;
- identify which individuals from within the child's family and wider network, and which practitioners from the local authority and its partner agencies, are to undertake which tasks; and
- set a realistic timescale, consistent with the child's needs, in which tasks must be achieved or reassessed.

Looked after children and safeguarding

4.10 Where children looked after are also subject to a child protection plan, this plan should be part of the overarching care plan so that there is a single planning process and plan which meets the requirements of Working Together to Safeguard Children and these regulations. The looked after child review should also include a review of the child protection plan. The two reviewing systems should be integrated and carefully monitored in a way that promotes a child centred and non-bureaucratic approach. This means that the timing of a child protection review conference should be the same as the review under these Regulations, to ensure that information in relation to the child's safety is considered within the review meeting, and informs the overall care planning process. It should be remembered that significant changes to the care plan can only be made at the looked after child review meeting.

Content of the care plan

4.11 Regulation 5 sets out the requirements for the preparation of the care plan and its content. Further information about the content of the care plan is set out in schedule 1 to these regulations.

4.12 Regulation 5(1)(a) requires the care plan to set out the information about the long term plan for the child or young person. Regulation 5(b)(i to vii) requires information to be recorded about needs, as set out in the child's developmental needs domain of the Assessment Framework (including needs

arising from race, culture, religion or language, special educational or health needs).

4.13 Regulation 5(c) makes clear that for children and young people who are looked after and provided with accommodation by the responsible authority, the placement plan required by regulation 9 (which sets out how the child or young person's needs will be met in the placement), is an essential part of the care planning process.

4.14 The care plan will also record in writing:

- the pathway plan for an eligible child;
- the name of the IRO;
- the wishes and feelings of those listed at section 22(4)(e) about the arrangements for the child;
- the wishes and feelings of the people listed above about any proposed changes to the care plan.

4.15 It is also important, however, that the care plan records information which will help the child, young person, parent or carers understand why decisions have been or are being made. The care plan should therefore also record:

- the proposed placement and why it was chosen;
- arrangements for contact with a brother or sister who is also looked after but not placed with the child or young person;
- details of any court orders made under section 8 or section 34 of the 1989 Act;
- arrangements for promoting and maintaining contact with a parent and anyone else with parental responsibility;
- a contingency plan if the plan breaks down;
- arrangements for ending the placement;
- what steps have been taken to enable the child to live with a connected person.

4.16 Regulation 6(1) requires the responsible authority to keep the child or young person's care plan under review in accordance with Part 6 of the regulations and must revise the plan if they consider any changes to the care plan are necessary. Any proposed change must first be considered at a review.

Permanence Planning

4.17 One of the key functions of the care plan is to ensure that each child has a plan for permanence by the time of the second review, as set out in the statutory guidance to the Adoption and Children Act 2002. Planning for permanence has long formed a part of social work with children and families.

Permanence is the framework of emotional, physical and legal conditions that gives a child a sense of security, continuity, commitment and identity. It therefore needs to be seen in the context of the whole system of services for children and their families.

4.18 Achieving permanence for a child or young person will be a key consideration from the day the child becomes looked after. Whatever the particular circumstances of the case, a clearly articulated plan to achieve permanence for the child must be agreed by the second review. The child's care plan will set out details of this plan and the arrangements for implementing it.

4.19 For most children, permanence is achieved through a successful return to birth family, where it has been possible to address the factors which led to the child becoming looked after. Other routes to permanence include family and friends care, particularly where such care can be supported by a legal order such as a residence order or special guardianship order; or long term foster care where it is agreed formally that this is where the child or young person will remain until adulthood and attachments have been formed. For children who are unable to return to birth or wider family, adoption offers a legally permanent new family to which they will belong all their lives. Twin track or parallel planning, including concurrent planning, may provide a means to securing permanence at an early stage for some children.

4.20 It is also important to think about permanence planning in the context of the needs of older children and young people.

4.21 A fundamental part of care planning and reviewing is therefore to consider the information available about the child's needs and progress, in order to identify the most appropriate permanence plan within the timescale.

Consent

4.22 In order for any care plan to be fulfilled it must have the consent of all those who will be required to make it happen and regulation 5 provides that the wishes and feelings of those consulted under section 22(4) about the plan must be recorded. These include the child or young person, parents and others with parental responsibility, and any other person whose wishes and feelings the responsible authority considers to be relevant. It would be expected that this latter category of people will include the child or young person's carer – whether foster carer or key worker in a registered children's home – subject to the wishes and feelings of an older young person, particularly a care leaver.

Health care

5.1 Regulation 7 sets out the requirements on responsible authorities to provide good health care and monitoring for the child or young person. Responsible authorities and their partner agencies should act as good parents in relation to the health of children looked after by them. Good health care

requires a positive approach to the child or young person's health and should be taken to include general surveillance and care for health and developmental progress as well as treatment for illness and accidents. It includes growth and development as well as physical and mental wellbeing. The health care of all children and young people looked after by local authorities or accommodated by voluntary organisations or in registered children's homes should be provided in the context of the child health surveillance programmes in the area, which are designed to promote the physical, social and emotional health and development of all children and young people.

5.2 The effective healthcare that most parents provide for their children is related to their intimate daily contact with them, and is generally learned by experience. Because they know the child so well, most parents are aware of the significance of small changes in appearance or behaviour in the context of the child's history. This is why placement stability is so closely linked to healthy development.

5.3 Specific and detailed statutory guidance on Promoting the Health and Wellbeing of Looked After Children was issued in November 2009. This guidance sets out in detail the statutory obligations and duties on local authorities and Primary Care Trusts (PCTs) to support and promote the health of looked after children and young people. It also contains detailed practice guidance to support the work of practitioners across agencies in carrying out these duties.

Health assessments

5.4 There is substantial evidence that looked after children and young people share many of the same risks and health problems as their peers, but often to a greater degree. Experience of poverty, chaotic life styles, poor parenting and abuse and neglect mean that many who enter the care system have health needs that have not been adequately addressed. They may also have missed out on routine health surveillance and health promotion before entry to care or accommodation.

5.5 Regulation 7(1) requires the responsible authority to make arrangements for a registered medical practitioner to carry out an assessment of the child or young person's state of health and provide a written report of the assessment. This assessment and report must address the matters specified in paragraph 1 of Schedule 1 to the Regulations.

5.6 The aim of this requirement is to provide a comprehensive health profile of the child, to identify those issues that have been overlooked in the past and that may need to be addressed in order to improve their physical and mental health and wellbeing, and to provide a basis for monitoring their development whilst they are being looked after. A copy of each report must be given to the child, subject to their age and understanding, parents and carers and the child's named Independent Reviewing Officer.

5.7 This assessment should take place and the written report be completed before the child is first placed by the local authority. If this is not reasonably practicable, then the assessment and the written report should certainly be complete before the first review of the child's case.

5.8 If a health assessment has been carried out within the three months prior to the commencement of the placement and the local authority has received a written report that meets the requirements in Schedule 1 of the Care Planning Regulations, then an assessment does not need to be carried out on the placement or in time for the first review.

5.9 Whilst the initial assessment must be carried out by a registered medical practitioner, subsequent assessments may be carried out by a registered nurse or by a registered midwife, so long as this is done under the supervision of a registered medical practitioner. These subsequent assessments should assess the child or young person's state of health and provide a written report of each assessment which addresses the matters specified in paragraph 1 of Schedule 1 of the Regulations.

5.10 These assessments should take place:

- (a) at least once every six months in the case for children aged under 5; and
- (b) at least once every twelve months in the case of children and young people aged over 5.

5.11 In cases where a young person refuses consent to an assessment, and is deemed to be of sufficient understanding to do so, there is no requirement to carry out a health assessment or provide a written report of a health assessment that does not take place. In these cases, the Independent Reviewing Officer should still have a copy of the overall care plan and the young person's health should still be taken into consideration at the time of review.

5.12 Best practice in local authorities has, however, shown that young people are more likely to participate in health assessments when they are encouraged and supported to attend, when the assessments are designed to address the issues which are of most concern to the young person and when they take place in suitable and accessible environment.

5.13 Regulation 7(5) also stipulates that the responsible local authority must take all reasonable steps to ensure that every child they care for is provided with appropriate health care services and that this should be done in accordance with the health plan. This health care needs to include:

- (a) medical and dental care and treatment; and
- (b) advice and guidance on health personal care and health promotion issues.

5.14 Many looked after children return to birth families once they leave care,

so involving these families in initial health assessments could provide an opportunity to directly obtain child and family health history as well as obtain consent to gather further necessary data from GPs, consultants and hospitals, thus resolving many of the current difficulties. Having a complete personal and family health history would considerably enhance the value of all health assessments and facilitate better awareness of health needs when a child or young person return's home.

5.15 Up to school age, it is recommended that the medical examination and written health assessment should take place and should follow (and use wherever possible) information gained from the Schedule 1 development surveillance prescribed by the Primary Care Trust (PCT) in which the child is placed. It is also recommended that a medical examination and written health assessment should take place prior to each change of school at intervals specified in the child's plan.

5.16 It is the responsibility of the local authority to make sure that health assessments are carried out; in general PCTs have a duty to comply with requests by local authorities for help to make sure that this happens. In accordance with Regulation 13(2)(g), the responsible authority must inform the PCT (or the local health board if a child or young person is being placed in Wales), as well as the general medical practitioner, when a child starts to be looked after or changes placement.

5.17 Where the child is to be placed out of area, local authorities should also notify the PCT for the area in which the child is living, and the PCT and the local authority for the area in which the child or young person is to be placed when they start or cease to be looked after or change placement. This includes the registered medical practitioner where the child or young person will be living for the duration of the placement. These legal requirements are intended to ensure that the looked after child or young person and his or her carers have access as soon as possible to all the support services available to them.

Individual health assessments

The health assessment should include:

- (a) an assessment of the child's state of health including their physical, emotional and mental health;
- 5.18 (b) the child's health history including, as far as practicable, the child's family's health history;
- (c) effect of health and health history on the child's development;
- (d) existing arrangement for medical and dental care, appropriate to the child's needs, including:
 - a. routine checks of the child's general state of health, including dental health,

- b. treatment and monitoring for identified health or dental care needs,
 - c. preventive measures such as inoculation,
 - d. screening for defects of vision or hearing, and
 - e. advice and guidance on promoting health and effective personal care.
- (e) Planned changes to current arrangements.

Full details of the proposed content of health assessments are given in the Statutory Guidance on Promoting the Health and Wellbeing of Looked After Children (2009).

Health plans

5.19 The health plan is developed from the assessment of the child or young person's health needs and forms the health section of the care plan. Paragraph 1 of Schedule 1 to the Regulations sets out the information to be included in the health plan and covers the full range of health matters including health history, current arrangements for health care, routine child health surveillance and screening, including preventive measures and health promotion (Schedule 1 paragraph 1(1) to (5)). It should specify those actions to be taken and services provided to meet the health needs identified in the assessment; the person or agency responsible for undertaking each action/providing each service; the likely timescales and the intended outcomes.

5.20 A looked after child or young person may also undergo routine health checks at school, alongside their peers. Issues raised by school health checks and actions to be taken should be included in the child or young person's health plan. Where the outcomes of the checks are normally notified to parents, the outcomes of checks for looked after children should be notified to both the main carer and to the child or young person's social worker. The information should also continue to be provided to the parents of a child or young person accommodated under Section 20 and to the parents of a child or young person on a care order, where appropriate.

5.21 When drawing up a plan for a child or young person, responsible authorities are required to ensure that s/he is provided with health care, including any specifically recommended and necessary immunisations and any necessary medical and dental attention. This will include registering the child or young person with a registered general medical practitioner and entering into a contract with a general dental practitioner to enable the child or young person to be offered the full range of NHS dental treatment. In the case of a child or young person with disabilities or special needs, consideration must be given to continuity of specialist care. Use of NHS provision and school health services should be the same for the child or young person being looked after or accommodated as it is for any other child. An informed and sensitive approach is especially necessary for these children

or young people since they will often have suffered early disadvantage and may be at risk of their health being compromised because they have not received continuity of care.

Review of health plans

5.22 In line with regulation 7(3), a registered medical practitioner or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner must review the child or young person's state of health and provide a written report at least once every six months before the child's fifth birthday, and at least once every twelve months after that while the child or young person remains looked after.

5.23 The health plan forms part of the child or young person's care plan; issues raised by the health review should be incorporated into an amended Care Plan and discussed as part of the overall reviewing process.

Education

6.1 Section 22(3)(a) of the 1989 Act sets out the general duty of the responsible authority to safeguard and promote the child's welfare. Section 22(3)(a) of the 1989 Act includes the particular duty on local authorities to promote the educational achievement of a child looked after by them. The authority must therefore give **particular attention** to the educational implications of any decision about the welfare of those children. This duty applies to all children looked after by a responsible authority, wherever they are placed. A separate volume of statutory guidance issued in 2005 provides fuller details of what local authorities should do to properly discharge their duty to promote the educational achievement of looked after children. We shall shortly be consulting on a revised version alongside the guidance on wider care planning arrangements. Both sets of guidance need to be acted on in parallel.

Promoting educational achievement

6.2 The separate volume of statutory guidance on the duty to promote the educational achievement of looked after children covers the local authority's role in:

- supporting educational achievement and aspirations;
- securing appropriate education, including in relation to how the school admissions legislative framework works for looked after children and young people;
- ensuring that all looked after children and young people have an effective, high quality Personal Education Plan;
- supporting the educational achievements of care leavers;
- working through the virtual school head, for example, how to actively support schools and designated teachers, including through raising their awareness about the needs of, and providing additional support

- as appropriate, for looked after children;
- discharging its education duty in relation to children and young people placed in out-of-authority placements;
- children and young people subject to secure accommodation orders;
- supporting the education of looked after children and young people who are in custody or subject to secure accommodation orders;
- providing training, development and support for carers and local authority staff.

6.3 This guidance should be acted upon as part of the wider assessment, care planning, placement and review of the child's needs.

6.4 Securing the best possible education for looked after children and young people should be pursued as an integral consideration in care and placement planning. In planning for the continuity of the child or young person's education, where as a result of becoming looked after it is impossible for the child or young person to remain in his or her current school, the care placement should not, except in an emergency, be made unless the education placement is made at the same time.

The Personal Education Plan (PEP)

6.5 Under Regulation 5(1)(b)(ii) the care plan must include a record of the child or young person's education and training 'the personal education plan' (PEP). The PEP is an integral part of the care plan. It should be made before the child becomes looked after or within 14 days of an emergency placement.

6.6 A PEP is a record of what needs to happen for looked after children and young people to enable them to fulfil their potential and reflects any existing education plans, such a statement of special educational needs.

6.7 Paragraph 2 of Schedule 1 in the Regulations sets out under six headings the information which must be included in the PEP. These are:

- Paragraph 2(1) requires the PEP to set out a chronology of the child or young person's educational history, which provides a record of the child's educational experience and progress in terms of National Curriculum levels of attainment. The PEP should, in particular,
 - include details of the schools and colleges attended, and the reasons for leaving,
 - give some indication of the extent to which a child or young person's education has been disrupted before entering care or accommodation,
 - provide information about the child or young person's attendance and disciplinary record at each school they have attended, and

- record progress and information about academic achievements and information about any special educational needs including details of any Statement.
- Paragraph 2(2) requires the PEP to set out the existing arrangements for the child or young person's education and training, including details of any special education provision or specialist support which is put in place to promote the child or young person's educational achievement.
- Paragraph 2(3) requires the PEP to set out details of the child's leisure interests.
- Paragraph 2(4) requires the PEP to include details of the arrangements in place to minimise disruption of the child or young person's education and training where a change in the child's educational arrangements is unavoidable.
- Paragraph 2(5) requires the PEP to describe the role of the people who care for a child or young person in supporting his or her educational achievements, including how they support the child or young person to pursue leisure interests.

The process of initiating, developing and reviewing the PEP

6.8 The local authority is responsible for making sure that every child or young person it looks after has an effective and high quality PEP. The PEP should be initiated as part of the care plan before the child or young person becomes looked after, or in the case of an emergency placement within 14 days. It should form the basis of an assessment of a child or young person's educational needs and a version of it should have been developed and available for the first statutory review meeting of the care plan (28 days after entry to care or accommodation).

6.9 The PEP should be developed working in partnership with the child or young person, the child or young person's school and designated teacher, other education professionals and carers. Through this process the social worker should ensure that the PEP is used as a tool to identify and support the child or young person's on-going personalised learning needs. It should set clear objectives and targets which relate to academic achievements and out of school activities or study support and any other targets which support the child or young person to achieve. The subsequent development and review of the PEP s should be undertaken in partnership with the child or young person, carers and others, especially with the child or young person's school or other education setting, usually through the designated teacher. Updated information in the PEP should be recorded and incorporated into the care plan as part of the review process.

6.10 The PEP is the core document to enable social workers, carers, teachers and the child to reach a shared and agreed understanding of what needs to be done, how and by whom (services and named people) to help the child or young person reach their full potential. In order to meet the child or young person's identified needs, the PEP should include as appropriate

arrangements for:

- accessing the school which will best meet the child or young person's needs and support the child or young person to succeed in education. This includes accessing nursery or other high quality early years provision;
- supporting the Assessment for Learning process and helping the child or young person with on-going catch up support, including through one-to-one tuition;
- securing high quality education provision where a child or young person is not in school, e.g. because of temporary or permanent exclusion;
- transition support and integration needs when a child or young person attends a new school or other education setting;
- delivering on support for the child or young person to pursue out of school hours learning activities, study support and leisure interests;
- helping the child or young person to achieve National Curriculum levels, particularly in completing an appropriate range of approved qualifications;
- putting in place the support needed to enable the child or young person to achieve long term aspirations for further and higher education, training and employment.

6.11 The PEP should also indicate who is responsible for helping the child or young person realise the goals in the plan, and when the actions will be taken. Actions to be taken should include those services that the child or young person might need in order to address issues raised by the assessment and also any additional help that carers might need to raise the child or young person's aspirations and support their education.

Duty to promote education and wider care planning

6.12 In planning the care of its looked after children it is essential that different parts of the local authority understand how they contribute to the way in which they help the authority as a whole meet its statutory duty to promote the education of looked after children and young people. It is particularly important, for example, that the local authority makes sure that everyone in the local authority – especially social workers and carers, those who are responsible for school admissions, school exclusions and behaviour support programmes, special educational needs and school improvement – understand their shared responsibility in making sure that the local authority helps looked after children and young people succeed in education. In particular:

- social workers and carers should understand how arrangements work for giving a looked after child or young person priority in the school admission arrangements as set out in the School Admissions Code and associated Regulations;

- officers administering arrangements for those schools the local authority is the admission authority for, should give maximum cooperation to social workers and carers of a looked after child or young person in order to comply with the School Admissions Code and associated Regulations;
- the relevant officers in the local authority work with the child or young person's education setting to ensure that, in the event of a permanent exclusion, it is used as a last resort and that alternative education provision is available from the sixth day. In view of the wide gap between the educational achievements of looked after children and young people and all children and the impact which school exclusions can have on the child's care placement, local authorities should strongly consider making alternative education provision from the first day of exclusion;
- social workers, independent reviewing officers and others in the local authority take every possible step to minimise disruption to an education placement as a result of entry into or exit from care or a change in care placement. Authorities should demonstrate through the PEP what additional support they are providing in order to help all looked after children and young people stay in the same school if they have to move to another address;
- for looked after young people who are in school years 10 and 11 (the fourth Key Stage), because of the importance of stability while young people are studying for GCSEs or equivalent qualifications, officers should make particular efforts to ensure that their education is not disrupted as a result of a placement move. All other options to maintain the education placement should have been explored and exhausted, and the PEP should evidence this. Before making a decision to disrupt the education placement the officer must first:
 - be satisfied that the new education provision will promote the child or young person's educational achievement by meeting his or her assessed needs and that it is consistent with the child or young person's PEP;
 - find out and give due consideration to the child or young person's wishes and feelings;
 - consult the designated teacher for the looked after child or young person if the looked after child or young person is on the roll of a maintained school. Where the child or young person is attending an Independent school or other education setting, the local authority should consult the most appropriate person at the school if there is no designated teacher;
 - inform the IRO.

7.1 Fifty per cent of looked after children and young people have at least one clinical mental health disorder. The impact of the experiences of a child or young person before they start to be looked after can often have a negative impact on the child's emotional development, and is frequently reflected in his or her behaviour in their placement, schools and other settings. Emotional and behavioural difficulties may be the trigger for a child or young person entering care in the first place and are often a contributory factor for placement breakdown. Emotional and behavioural problems, often arising from stressful life events, unless sensitively treated, can become entrenched and established patterns of behaviour long after the original situation has passed.

7.2 There is also a clear connection between emotional and behavioural difficulties and school performance either because the child or young person is too depressed or unhappy to access education, because they have not had the opportunity to develop effective concentration skills and develop effective relationships with the peers, or because they lack the basic skills such as reading to access the curriculum.

7.3 It is important not to accept emotional and behavioural problems as inevitable for a child or young person who is looked after. Each child is required to have a screening test using the Strengths and Difficulties Questionnaire (SDQ) and the findings should be discussed with the relevant health professional. Where the child or young person screens positive on the SDQ, a referral to CAMHS or other relevant local services should be made in order to secure a diagnosis and ensure that appropriate treatment and support is in place.

7.4 Emotional and behavioural development is not only about difficulties, but is also concerned with how the child or young person's social and emotional development can be effectively promoted. Attention should therefore be paid to the quality of the child or young person's experiences in the placement to ensure that carers are trained to provide appropriate responses to the child or young person and that that daily life in the home provides a high quality, warm and secure environment with opportunities for engagement in positive activities which build skills and self esteem. It is also important all those working with looked after children and young people, such as teachers, youth workers, personal advisers, etc., are also aware of their role in promoting their social and emotional development within mainstream and everyday settings.

7.5 This is an important dimension of the child or young person's life for care planning and reviewing to ensure that difficulties are being addressed and appropriate supports and services being provided to the child, young person and/or carer to support the child or young person's healthy development in the placement.

7.6 Further information about emotional and behavioural development is set out in the guidance on Promoting the Health and Wellbeing of Looked after Children.

Identity

7.7 Not only does a child and young person need to know who they are and where they have come from but to understand, as far as they are able, why they are being looked after away from home. Knowledge about oneself and one's history is an important component of identity, recognised in good social work practice of undertaking life story work with children and young people.

7.8 It may be difficult to translate the concept of identity into specific actions for social workers, carers and other practitioners, which can be set out in a care or placement plan. Nevertheless enabling a child or young person to develop a positive self concept and self esteem is another basic task of parenting which usually happens naturally in families but may be more difficult in a care context.

7.9 Low self esteem may be an underlying factor in many of the difficulties experienced by children and young people who are looked after. Having opportunities to meet others in a similar situation can be a source of strength but equally, it is important to encourage children or young people to take part in activities and develop friendships outside the care system.

7.10 Racial and cultural identity is an important aspect of identity for many looked after children and young people. Dual and multiple heritage children and young people are over-represented in the care system, while in some areas this is not reflected in the workforce or placement. A child or young person in this situation will need to have their sense of racial and cultural identity not only preserved but positively promoted. The assessment of each individual child or young person's needs alongside the child or young person's own views will determine the actions which should be put into the care plan to ensure that he or she is able to develop a strong sense of identity and self esteem. This will act not only as a strong protective factor against unhealthy risk taking behaviours, but enable the child or young person to maximise their talents.

Social presentation

7.11 Social presentation is an important aspect of how children, young people and adults interact with the family and the outside world. It is important that children and young people have the opportunity to learn a range of social skills, including the way in which they may present themselves in different contexts – family, school, work and social activities with friends. Because of other difficulties the young person may be experiencing, insufficient attention may be given to social presentation and social skills so that a young person is ill-equipped to deal with adults and peers in public situations. This has implications for both employment and social opportunities and for the child or young person's self-esteem.

7.12 The majority of parents concern themselves with how their child or

young person is seen by others and discussions about these matters contribute to the child or young person's growing sense of identity and autonomy. For this reason it is important that the child or young person's carer actively promotes this aspect of the child's development. It is also important to ensure that a looked after child or young person has access to a wide range of social activities and opportunities where they can learn what is appropriate in different situations in the context of their own identity and autonomy.

7.13 This should be discussed with the child or young person so that they have the opportunity to think about what it means for them and any particular help they may need in this area of their life. Actions identified will be set out in the care and or placement plan and reviewed regularly.

Self care skills

7.14 A child or young person growing up in his or her own family is gradually given greater responsibility for looking after themselves, their living space, clothes and possessions and making decisions about how to spend time and money, although the timing and extent of this may vary across different families and ethnic and cultural groups. Young adults on the point of leaving home normally expect to take responsibility for most aspects of their lives but the majority will continue to look to their family for a considerable amount of emotional and material support.

7.15 While many responsible authorities have set up independence units to enable young people to practice the skills they will need, this may be too late for those who haven't developed the building blocks for independence. Parents work on their child's self care skills from a young age ensuring that he or she has age appropriate opportunities to develop those building blocks. This is why self care and competence are relevant for children of all ages.

7.16 It will be important that milestones are set in every care plan or pathway plan, with the evaluation of planned goals forming part of the review, in order to identify the child or young person's progress and next steps.

Family and Social relationships

7.17 The maintenance or creation of a supportive, affectionate and reliable network of relationships is the foundation stone of children and young people's lives. Historically, such a network may have been perceived rather narrowly by professionals and carers and at its narrowest restricted to birth parents. However it is important to promote a wide range of social relationships for children and young people who are looked after as these can help to provide continuity and opportunity, enhance self esteem, resilience and personal identity, as well as nurture the sense of being loved and valued.

7.18 Most children return home from care or voluntary arrangements to birth parents and support for those relationships while the child is in care or being provided with accommodation are key to a successful return home. Previous

paragraphs above identified the importance of a sense of emotional permanence where children or young people have a positive attachment to an adult carer, even if they are not currently living with them. Even where a return home is not planned and the child or young person is not being adopted into a permanent new family, enabling the child or young person to have a positive view of birth parents to take with them into their adult relationships is an important developmental and emotional task. This will require skilled work from social workers and carers.

7.19 Relationships with brothers and sisters are often disrupted for a range of reasons and yet are identified by children and young people as some of the most important people with whom they wish to maintain contact. As they get older, friends become more important and can provide important support during difficult times in a child's life and during transitions to home, a new placement or to adulthood. This means that at the time of entry to care and throughout a care episode, the social worker should ensure that all the people who are significant in a child or young person's life are identified and their details recorded in the care plan and placement plan.

7.20 Where children fulfil the criteria set out in section 23ZB(1) and the guidance, the care plan should record the arrangements made to appoint an independent visitor or the fact that the child has objected to having an independent visitor as set out at section 23ZB(6).

Planning and contact

8.1 The duties of the responsible authority in relation to contact for a child or young person are set out in paragraph 15 of Schedule 2 of the Children Act 1989. This duty requires the responsible authority (unless it is not reasonably practicable or consistent with the child's welfare) to endeavour to **promote** contact between the child and their parents, any person who is not a parent but who has parental responsibility for the child, and any relative, friend or other person connected with the child. (Where the child is subject to a care order, section 34 and regulation 8 also applies). The responsible authority is required to take reasonable steps to inform the child or young person's parents and any other person who has parental responsibility for the child or young person of where the child is living (paragraph 15(2) of Schedule 2). However, if it would prejudice the child or young person's welfare, information need not be given (paragraph 15(4) of Schedule 2). Equally, a parent or other person with parental responsibility for the child must inform the local authority of the child or young person's address (paragraph 15(2)(b) of Schedule 2).

8.2 Consideration of contact is an essential element in the planning process. So far as is reasonably practicable, the wishes and feelings of the child or young person, if they are old enough, the parents and the child or young person's carers must be ascertained before a decision about contact arrangements is made (section 22(4)). The value and purpose of contact should be clearly understood and agreed so far as possible by all concerned. Managing contact can place emotional and practical strains on all parties involved, which is why there should be a clear understanding from the outset

about the arrangements and what is expected of the parents, the responsible authority and the child or young person's carers in connection with those arrangements.

Who should be included

8.3 The assessment of the child or young person will identify those people in the child's network with whom it will be important to maintain contact. In some cases it may be appropriate to identify relatives, who may include a parent with whom contact has lapsed, and to follow up the prospects of re-establishing contact. Care will clearly be needed where there is family or marital conflict, but responsible authorities should be ready to explore possibilities of preserving, establishing or promoting contact which could be beneficial to the child or young person. In doing so they should not overlook problems which may arise when a child is placed with a person who may be reluctant to allow contact with, for example, an unmarried father, relatives or friends of the child. Carers and the child may need support to cope with these situations.

8.4 In this context, the first weeks during which the child is looked after by the responsible authority are likely to be crucial to the success of the relationship between the parent, the social worker and the child's carers and to the level of successful future contact between the parents and the child. It is at this time that patterns become set which may be difficult to change. Parents should be involved in the planning for contact prior to placement wherever possible.

8.5 Emergency admissions require special care if parents are to be reassured from the outset that they have a continuing role in their child's life and to minimise distress for the child. Early visits are essential though parents may need help to cope with both their own and their child's distress.

8.6 Paragraph 3(4)(b) of Schedule 1 to the Regulations also requires that arrangements for contact with grandparents be recorded. Grandparents can provide a sense of family history and continuity where children cannot live with birth parents yet contact may easily be lost if the child becomes looked after.

Different types of contact

8.7 For the majority of children there will be no doubt that their interests will be best served by efforts to sustain or create links with their birth families. Contact in the sense of personal meetings and visits will generally be the most common and, for both families and children, the most satisfactory way of maintaining their relationship. But other means which can help to keep family bonds alive should be borne in mind: letters, telephone calls, exchange of photographs. Modern technology offers greater opportunities than ever before for separated people to maintain links and responsible authorities and carers should work together to explore how electronic media can support positive relationships for children. Contacts, however occasional, may

continue to have a value for the child even when there is no question of return to his family. These contacts can keep alive for a child a sense of his origins and may keep open the options for family relationships to be re-established in later life.

Contact with a child in care

8.8 Regulation 8 concerns contact with a child who is in the care of the local authority. It imposes specific requirements on the local authority in relation to the refusal of contact, departure from the terms of an order made under section 34 and notification or variation or supervision of contact arrangements made under a section 34 order.

8.9 Where a child is in care, section 34 provides that the responsible authority must allow reasonable contact with a child's parents, any guardian and any other person with whom he was living under a court order immediately before the care order was made (section 34(1)). The court order may be a residence order or an order under the inherent jurisdiction of the High Court. The power to make orders concerning contact is set out in sections 34(2), (4), (5), (6) and (7).

8.10 In the event of a dispute about contact when a child or young person is not in care and where the matter cannot be resolved and the complaints procedure has not provided a solution, a section 8 order may be made on the application of the child or young person, a parent or other person.

8.11 Regulation 8(2) requires the responsible authority to notify those affected about proposals under section 34(6) to refuse contact that would otherwise be required under section 34(1) or an order under section 34. If those arrangements are defined in a court order, regulation 8(3) provides for the terms of the order to be departed from with the agreement of the person named in the order, and in specified circumstances with the agreement of the child, subject to the child or young person being of sufficient understanding.

8.12 In these cases, notification should also be given to the child or young person's parents (if not the person with whom the agreement has been made), their guardian, the person in whose favour a residence order was in force immediately before the care order was made; and any other person whose wishes and feelings the authority consider to be relevant. The IRO must also be informed.

Contact arrangements for a child looked after by voluntary arrangements

8.13 Arrangements for contact with children and young people looked after under voluntary arrangements are a matter for negotiation and agreement between the responsible authority, the child or young person (subject to the child being of sufficient age and understanding), parents and others seeking contact. The responsible authority should ensure that parents and others wishing to have contact with the child or young person know where to seek

advice about contact matters.

Contact and Adoption

8.14 Where a local authority is authorised to place a child for adoption, any provision for contact – section 8 or section 34 order – under the 1989 Act ceases to have effect and the local authority will need to consider their responsibilities under section 26 of the Adoption and Children Act 2002.

Sibling contact

8.15 Paragraph 3 of Schedule 1 to the Regulations sets out a specific requirement for the care plan to set out arrangements for the child to maintain contact with brothers and sisters who are also looked after by the responsible authority but with whom it is not possible for the child or young person to be placed (see placement decisions section of this guidance), so far as this is consistent with the child or young person's welfare. Maintaining contact with siblings is reported by children or young people to be one of their highest priorities but it requires the active involvement of social workers and carers to facilitate this contact in a way which supports the development of healthy sibling relationships between children who are not able to live together.

Independent visitors

9.1 This section provides guidance on the statutory framework for the appointment and function of independent visitors inserted in section 23ZB. (The new section 23ZB was inserted by section 16 of the Children and Young Persons Act 2008 which also repealed paragraph 17 of Schedule 2).

Duty to appoint

9.2 Section 23ZB(1) sets out the requirement for a responsible authority looking after a child or young person to appoint a person to be a child or young person's independent visitor where this is in the child or young person's interest. The appointment should be considered as part of developing the care plan for the child or young person or as part of a review of the child or young person's case. Any decision not to appoint an independent visitor should be kept under review to make sure that the opportunity to appoint such a person is considered if the child or young person's circumstances change.

Definition

9.3 Regulation 49 sets out when a person is to be regarded as 'independent', that is where the person appointed is not connected with the local authority as a result of being an elected or co-opted member or an officer of the responsible authority or is the spouse or civil partner or other person (whether of the same or a different sex) living in the same household as the person who is a member or an officer of the responsible authority.

Identification of children for whom an independent visitor should be

appointed

9.4 Under section 23ZB a responsible authority should continue to assess whether it would be appropriate to appoint an independent visitor for a child if either of the following criteria is satisfied:

- where it appears to a local authority in relation to any child who they are looking after, that communication between the child and a parent or any person who is not a parent but has parental responsibility for the child has been infrequent;
- where the child they are looking after has not been visited (or lived with) a parent or any person who is not the child's parent but who has parental responsibility for the child, during the preceding twelve months.

9.5 Section 22ZB broadens the range of looked after children for whom a local authority is required to consider the appointment of an independent visitor. Decisions about whether to consider appointing such a visitor should be determined according to the needs of the child. In helping to decide what factors should be taken into account when considering which children might benefit from an independent visitor the local authority should consider the following:

- whether the child is placed at a distance from home, particularly where the placement is out-of-authority, which makes it difficult to maintain sufficient contact with friends;
- whether the child is unable to go out independently or where they do not find it easy to communicate or build positive relationships;
- whether the child is likely to engage in behaviour which will put them at risk as a result of peer pressure or forming inappropriate relationships with people who are significantly older;
- children who are placed in residential settings who would benefit from what an independent visitor could provide;
- children for whom it would make a positive contribution to promoting their education and health.

Selecting an independent visitor

9.6 In matching a child to an independent visitor the local authority should take account of the wishes and feelings of the child. The appointment should not be made if the child objects to it and the authority are satisfied that the child has sufficient age and understanding to make an informed decision (section 23ZB (6)). This means that the child must be part of the process of deciding whether an independent visitor should be appointed.

9.7 The child's social worker will have been involved in the process of identifying whether the child would benefit from an independent visitor and the social worker's relationship with, and knowledge of, the child is key in matching a child with any potential visitor. The social worker will know and

understand what the child would like to have from a relationship with an independent visitor. The personal qualities of an independent visitor will include an ability to relate to children generally and more specifically in a manner appropriate to the age and circumstances of the child.

9.8 There will be a need for introductory meetings so that the child can decide whether they wish the appointment to be made, and if not, the local authority should consider whether the appointment of another person might be possible and appropriate.

9.9 In a very limited number of circumstances there may be a relative who would be appropriate to fulfil the role of an independent visitor and this arrangement might be the child's preferred option. Responsible authorities will need to distinguish between the small minority of cases where the designation of a relative or friend as the child's visitor is appropriate and the more common situation where the child has ongoing contact with relatives and friends. In the latter situation the responsible authority should encourage such contacts and may pay expenses without changing the status to that of an independent visitor.

Recruitment

9.10 Local authorities should already have commissioning strategies in place for the recruitment of independent visitors. The requirement to widen the duty to consider appointing an independent visitor for a wider group of looked after children should be considered as part of how they commission this service. Authorities should make sure that independent visitors are able to make a long-term commitment to the role. However, recruitment procedures should not preclude those potential independent visitors who, although able only to offer their services for shorter periods, may have valuable qualities and could well be needed and play a valuable role.

9.11 In recruiting a pool of persons to act as independent visitors or in commissioning the service from a provider, local authorities should ensure:

- Recruiting from a wide pool of people with a variety of backgrounds and ages. This should allow the selection of an independent visitor for a particular child to take place more quickly than would be possible if the complete recruitment and appointment process had to be undertaken from the beginning;
- Robust induction programmes which cover not only the formal aspects of the independent visitor role and functions but also the duties and procedures of the local authority and the relevant aspects of the legislation;
- Induction training will also allow the opportunity to set expectations in respect of access to file information concerning the child and the extent to which the independent visitor herself keeps any record, over and above that required to claim expenses.

9.12 On appointment of the independent visitor, the local authority will have

to decide the amount of information to be given to her in the circumstances of the child's current situation and history. The general approach is likely to be based on the "need to know" principle but there will always be some situations where it would be judged preferable to give the independent visitor the maximum information possible. The child himself should be involved in deciding what information is made available to her. Independent visitors, although appointed by the local authority, have no formal right to inspect the child's case files.

9.13 In most situations it will neither be necessary nor appropriate for the independent visitor to keep detailed records of her discussions with the child. However, she may wish to keep a note as an aide memoire; for example, the names of relatives who the child mentions or birthdays. The independent visitor may also feel it appropriate to note the decisions of meetings such as case reviews. Induction training should stress the importance of ensuring that such confidential information is safely stored, in the context of wider discussion about general confidentiality issues. Furthermore, there should be a clear understanding that such records would be destroyed on termination of her appointment.

9.14 Local authorities should arrange for the preparation of carers and provide any support or explanations to them and the child about the independent visitor's functions. Explanation should not be left to the independent visitor. They will of course need to be sensitive in all their dealings with the child and their carers particularly where the child is in a family placement and they are visiting the family's home.

Independent visitors do not require supervision or day to day management – indeed such an approach might seriously prejudice their independence. However, they will require support.

Appointment

9.15 Local authorities will need to take steps to avoid the risk that unsuitable persons who pose a serious threat to children's safety are inadvertently recruited. Appointment procedures need to be rigorous and formal. Applicants will need to submit detailed background information and provide the names of two personal references. The relevant CRB checks should be carried out before any decision is taken to appoint the applicant.

Review and termination of appointment

9.16 Local authorities will need to consider at each review under the Regulations the appropriateness of the continuing appointment of the particular independent visitor and indeed of any independent visitor for that child. The child's views will be highly relevant. The local authority will need to consider the most appropriate way of ascertaining the child's wishes about the continuation of an appointment which has been made. If they object to it continuing and the authority are satisfied that they have sufficient understanding to make an informed decision, the authority must terminate the

independent visitor's appointment in respect of that particular child. They should then consider whether it would be appropriate to appoint another independent visitor in conjunction with the child.

9.17 The independent visitor ceases to be appointed if she gives notice in writing to the authority who appointed her that she resigns the appointment or the authority gives her notice in writing that they have terminated it. Such a termination is in respect of a visitor's appointment to an individual child but may also signal that the local authority does not wish the independent visitor to be appointed again for any child. However, where an independent visitor is acting in respect of a number of children, termination of appointment in respect of one of them does not terminate appointment in respect of the others. Each case should be considered separately.

9.18 The local authority must act with the greatest care to avoid any suggestion that the termination of an independent visitor's appointment is a consequence of that visitor not acting with appropriate independence and, for example, challenging the validity of the authority's care planning or standards of service in respect of a particular child.

9.19 Where the independent visitor disagrees with the local authority's action regarding termination they may wish to make a formal complaint. The local authority has discretion to decide whether the independent visitor is a person with sufficient interest in the child's welfare to warrant his representations being considered under the Representations Procedure (section 26(3)(e)). The situation may also arise where, notwithstanding the local authority's wish to terminate the appointment, the child wishes it to continue on a friendship basis. The local authority in considering the child's wishes may conclude on balance that acceptance of such a position is preferable to official opposition provided the child's welfare is not endangered.

9.20 There may be exceptional circumstances where the behaviour of the independent visitor, whilst falling short of criminal activity, is nevertheless totally inappropriate and constitutes a serious risk to the child's welfare. Failure to terminate the independent visitor's appointment would amount to a breach of the local authority's duty to safeguard and promote the welfare of the child. In these circumstances the local authority should review any other current and all previous appointments of that person as an independent visitor and carry out such investigations as are necessary. The child may well need particular help and support. Consideration will have to be given to implementing child protection procedures.

The role and function of the independent visitor

9.21 The functions of the independent visitor comprise visiting, advising and befriending the child and will vary according to the needs and wishes of the individual child. In some instances, independent visitors may have qualities, skills, experience and qualifications which in other settings entitle them to undertake work in a professional capacity with children. In general, however, the role is envisaged as being undertaken by volunteers from a lay

perspective.

9.22 The independent visitor role is directed at contributing to the welfare of the child, and this includes promoting the child's developmental, social, emotional, educational, religious and cultural needs. It may also require her to encourage the child to exercise his rights and to participate in decisions which will affect him. It will also include supporting the care plan for the child and his carers, such as foster carers or residential workers who have day to day care for the child. If there are concerns about aspects of the child's case these should be discussed with the child's social worker or if the independent visitor is still not satisfied, with the child's IRO.

9.23 The independent visitor's role and functions can also be described in terms of what she is not intended to do. She is not to be anything other than child-focused, however sympathetic to other points of view. Her function is not that of a substitute parent or carer. The independent visitor should aim, as far as possible, to complement the activities of carers. In bringing the lay perspective, she must not allow her personal prejudices to determine her actions. She is not expected to accept unquestioningly what those responsible for the child tell her but should remain open-minded and even sceptical.

Aspects of the independent visitor role

Advising

9.24 There will be a range of issues about which an independent visitor might offer the child advice. Some of these may be quite straightforward such as where to find or who to ask for particular information. It is not intended that the independent visitor should engage the child in intensive counselling involving complex situations.

Befriending

9.25 The person appointed will need to try to establish with the child a sense of trust in the relationship which must form one of the basic elements in the befriending role. For some of these children earlier relationships with adults have ended in disappointment and disillusionment. They may be reluctant or find it very difficult to establish rapport with adults and to place any trust in them. The independent visitor must, therefore, also be prepared for the process of establishing trust to be a slow one and for there to be setbacks.

Meetings with the Local Authority or Other Agencies

9.26 The possible involvement of the independent visitor in meetings or consultation processes arises in some circumstances as a legal requirement and in others is on a discretionary basis.

9.27 The mandatory involvement is in respect of a child who has an independent visitor and who is in secure accommodation. Where the local

authority intends to make an application to court to keep the child in that accommodation, the authority has to inform a range of persons, including the child's independent visitor if one has been appointed, of the intention.

9.28 The independent visitor will have the opportunity to provide contributions to the review of a child's case either in writing or at meetings where the child's case is to be discussed, and to which she has been invited because she has something relevant to contribute or because the child has requested that they attend with them. The independent visitor may wish to put views to the meeting as a friend of the child.

Advocacy

9.29 In some situations the child may be dissatisfied with the current arrangements for their care or the absence of progress in achieving a plan for the future. They may dislike and distrust their carers and those in the authority who have responsibility for them. They may feel that their views are ignored or never sought and that they have no realistic opportunity to complain or challenge the validity of the legal processes which affect them. They may disclose that they are being abused by carers. In such a bleak scenario the child has an urgent need for skilled advocacy. This is not a role the independent visitor is expected to play.

9.30 Instead, the independent visitor must be able to recognise the needs of the child in such serious situations and with the child's agreement draw their concerns to the attention of the child's social worker or, if necessary, a more senior officer in the social services department. In certain cases it may be appropriate to refer the matter to one of the voluntary organisations which specialises in advocacy.

Expenses

9.31 The independent visitor is entitled to recover from the authority who appointed them any reasonable expenses incurred for the purpose of their functions in visiting, advising and befriending the child. The term 'expenses' is meant to cover travel and out of pocket payments but is not intended to equate to a regular payment or salary for undertaking the role of independent visitor.

9.32 The need for an independent visitor to continue her relationship with a young person once they cease to be looked after by the local authority, where the young person seeks this, should not be overlooked. Such continuing arrangements would be on an informal basis but the local authority should consider whether it would be appropriate to continue to meet the cost of reasonable expenses associated with this continued role, until such time as its own after-care responsibilities expire.

Placements

Duties under Section 22C

10.1 Section 22C (substituted for section 23 by section 8 of the Children and Young Persons Act 2008) sets out the way in which looked after children are to be accommodated and maintained. It provides a framework within which the decisions about the most appropriate way to accommodate and maintain the child or young person must be considered.

10.2 Children and young people may only be placed with carers where that placement is consistent with the authority's duty to safeguard and promote their welfare. This duty applies not only to placements with unrelated carers but also to those with parents, other persons with parental responsibility and persons in whose favour a residence order had been made before a child entered care. Abuse or neglect is the primary reason for social work involvement for nearly two thirds of children and young people looked after by local authorities; research is demonstrating that about half of those who are returned to birth families are re-abused. Where a child is subject to a care order because of suffering or being likely to suffer significant harm, it is not consistent with his or her welfare to return home if the factors which led to previous abuse have not yet been addressed and resolved.

Placement Decisions

10.3 A good assessment of the child and their family will lead to greater clarity about the type of environment which will best meet the needs of the child. As many children enter care as a result of safeguarding concerns, a core assessment will already have been undertaken. Section 22C lays specific duties on the local authority about the way in which decisions about placements are to be made, which include specific considerations the responsible authority must have regard to. All these duties are exercised in the context of the overriding duty to safeguard and promote the child's welfare.

10.4 The first requirement on the responsible authority is the "general rehabilitation" duty which requires the responsible authority to make arrangements for the child to live with a parent, a person who holds parental responsibility for the child or, where the child is in care, a person in whose favour a residence order was in force before the making of the care order ("parents"). Children and young people may not, however, be placed with persons who have been refused contact under Children Act 1989, section 34. Furthermore section 22C(4) does not require the responsible authority to place the child with parents or relatives if to do so would not be consistent with the child's welfare or would not be reasonably practicable. Regulation 16 makes clear that the responsible authority must not place the child or young person with a parent if to do so would be incompatible with any order made under section 34.

10.5 Guidance on the requirements before placing a child or young person who is subject to a care order at home with their parents is set out in elsewhere in this guidance.

10.6 If it is not possible for the child or young person to be rehabilitated with his or her parents then section 22C requires the responsible authority to give preference to a placement with an individual who is a relative, friend or other person connected with the child and who is also a local authority foster carer (section 22C(5), (6)(a) and (7)(a)). These placements must be considered before those with unconnected local authority foster carers, i.e. a foster carer who is not a relative, friend or other person connected to the child; a placement in a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000; or placements in accordance with other arrangements which comply with regulations made under section 22D.

10.7 In determining the most appropriate placement for a child who cannot be placed with a parent, the responsible authority must also ensure that the placement is such that:

- (a) it allows the child to live near their home;
- (b) it does not disrupt the child's education (particularly at Key stage 4 as set out in regulation 10);
- (c) it enables the child to live with a sibling for whom the local authority are also providing accommodation;
- (d) if the child is disabled, the accommodation provided is suitable to his or her particular needs (section 22C (8)(d)).

Applying the individual criteria

10.8 Ideally all placements will meet all these criteria; however this is unlikely to be the reality and social workers and family placement workers and resource panels may find themselves faced with difficult choices. The placement criteria are important because most children or young people benefit by being placed with relatives or friends or others connected to them; near their own homes; continuing to attend the same school; living with their siblings and in accommodation that suits any special needs. However not all these factors are always beneficial for all children and young people; moreover some will have greater priority than others at different times in children's lives. In weighing up the different options a number of issues need to be considered, the most important of which is the need to ask how far a placement will meet the needs of a particular child or young person given their previous history and their current circumstances.

Placements with a connected person

10.9 Most children benefit from placements with relatives and friends because these provide more continuity than placements with previously unknown carers; being with relatives preserves a child or young person's sense of belonging to a wider family network, a close attachment is more likely to exist already or to develop and there is also some evidence to suggest that relatives are less likely to reject a child if difficulties arise. However not all relatives are able to safeguard and promote a child's welfare,

and their parenting capacity should be rigorously assessed before approval as local authority foster carers.

10.10 In some families the tensions and difficulties that arise between family members may outweigh the benefits. Some relatives also live hundreds of miles from the child or young person's home. While the chance of developing a secure attachment with a relative may be of key significance to a younger child, the same may not be true of a teenager who may resent being cut off from peer networks or being obliged to change schools at a critical time. It is particularly important to discuss the priorities of placement with the children and young people concerned and take account of their views. A good relationship with the child or young person, informed by knowledge of the child or young person's past and current needs and their wishes and feelings will provide a sound basis for exercising professional judgement within this framework.

10.11 Similar consideration needs to be given to balancing the requirement to place a child or young person near their home against other, competing needs. Familiar surroundings are, for instance, likely to be of less importance than relatives who can reinforce family ties. Moreover, those young people who have been drawn into a gang culture or become involved with a delinquent peer group may benefit not from being near home but from being offered the chance to develop new relationships and skills.

Avoidance of disruption in education

10.12 Continuity of education is important not only to children and young people's academic success but also to their emotional and social wellbeing. Moving school is almost always unsettling. Children may find that different areas of the curriculum were covered at their previous school and there are gaps in their knowledge; it may be discouraging and difficult to retrieve lost ground. Moreover it takes time for their strengths to be recognised and acknowledged and for peers to accept them into an established friendship network.

10.13 When selecting placements, authorities are therefore required to avoid disrupting a child or young person's education or training. This means that they have an obligation to try to ensure that the child can continue to stay at the same school even if they can no longer live in the immediate neighbourhood. However once again there may be a need to balance this principle against other needs where there are competing priorities. It is important to discuss these issues with the children concerned and to be aware of their earlier educational experiences. Authorities can provide transport to keep a child in the same school, but some children may find the disadvantages of a lengthy journey outweigh the benefits of remaining in the same setting. Children who have had numerous changes of school and have finally settled somewhere where they are doing well may find a move particularly disruptive, as may teenagers who are well integrated into their peer groups.

Elsewhere in this guidance the requirements of regulation 10 are addressed.

Key Stage 4

10.14 Moving a young person in the middle of a GCSE course may damage their chances of gaining the qualifications that they need to enter further education or to get a job. For this reason regulation 10 sets out specific requirements before a decision to make any change to a placement that will disrupt the education of a young person in the fourth key stage (school years 10 and 11). Such a decision can only be made by a Director of Children's Services or another officer of the authority who has been nominated for that purpose. It is expected that the young person's education will not be disrupted other than as a consequence of an emergency placement.

10.15 Before making a decision to change the young person's school as a consequence of a placement, the nominated person must ascertain the wishes and feelings of the young person and give due consideration to them, consult with their independent reviewing officer (IRO) and the designated teacher at the school (or in the case of an independent schools where there is no designated teacher, another appropriate person at the school). The nominated person should be satisfied that the proposed placement is the most appropriate available for the young person and that the arrangements for their accommodation are consistent with their care plan. In particular, the PEP should set out the arrangements which are being put in place to minimise disruption in education as a result of a placement move, especially in relation to any arrangements for continuing with courses which lead to externally awarded qualifications.

Placement with siblings

10.16 Being able to live with brothers and sisters where they are also looked after is an important protective factor for many looked after children and young people. Positive sibling relationships provide support both in childhood and adulthood and can be particularly valuable during changes in a young person's life, such as leaving care.

10.17 A number of factors however, can go against achieving the positive placement of brothers and sisters together – they may have entered care at different times and/or they may have very different needs related to past experiences, current emotional behavioural development and age, where there are significant age differences. In some circumstances a child or young person may have been abused by a brother or sister which is why an understanding of family functioning and family history, as well as listening to the wishes and feelings of children, are key to informing these judgements.

10.18 If it is likely that brothers and sisters who are not placed together are likely to remain looked after for the medium to long term, arrangements should be made as part of each child or young person's care plan to enable the brothers and sisters to live together taking into account the relevance of other factors set out in section 22C(8)(a), (b) and (d). The guidance on sibling

contact where it is not possible for brothers and sisters to live together is set out at in this guidance

Accommodation suitable to the needs of a disabled child

10.19 Section 22C(8)(d) requires responsible authorities to ensure that the placement is such that, if the child or young person is disabled, the accommodation provided is suitable to his or her particular needs. The needs of disabled children and young people may be very different according to the nature of the disability, the impact of any disability on the child or young person's functioning and individual circumstances. A very thorough assessment of the child or young person's needs must therefore be undertaken to ensure that requirements for their accommodation are identified and arrangements put in place to ensure its suitability.

10.20 Foster carers provide a child or young person with disabilities, with an important opportunity to live in their local communities rather than be placed in more traditional forms of residential care. Ordinary homes, however, may not be accessible or suitable for disabled children and young people. Depending on the nature of the child's disability, he or she may have additional needs for privacy, particularly in bedroom and bathroom areas. The provision of appropriate equipment or adaptations to bathrooms and bedrooms can make accommodation suitable and encourage independence. Foster carers may need particular training in actively encouraging the child or young person to maximise their skills and autonomy.

10.21 Whether in foster care or residential care, disabled children and young people must have access to the same facilities such as recreation, living or garden areas, as other non-disabled children in the home.

10.22 Responsible authorities must work in partnership with other agencies, particularly housing and health (including occupational therapy services), to ensure that the child or young person's future living environment is thoroughly assessed for its suitability.

Placements out of the authority's area

10.23 Regulations 11 and 12 set out the factors to be taken into account when decisions are made to place the child or young person out of the area of the responsible authority, but still within England and Wales. (It does not apply where the placement out of area is with any of the classes of person set out in regulation 11(4)). 'Area' means the local authority area.

10.24 As with all other decisions about a child or young person, the responsible authority must ensure that the placement is the most appropriate placement available, and will meet the child or young person's needs identified in the care plan and takes account of the wishes and feelings of the child or young person subject to age and understanding. Where appropriate, the child or young person's family must also be consulted before the decision to place is made.

10.25 Where an out of authority placement is proposed for a child or young person it is expected that in all possible circumstances the child or young person's social worker will accompany a child or young person on a visit before a final decision is made. This is to ensure that the wishes and feelings of the child or young person are informed by detailed knowledge of the proposed placement.

10.26 There will be circumstances where a placement outside of the area of the responsible authority area will be the most suitable for the child or young person, such as where they have complex treatment needs and there may be local consortia arrangements in place in the area of another local authority for such provision or where the child or young person's need for safeguarding requires a placement out of the home area. Where a child or young person with complex needs is being placed at some distance from the responsible authority, part of the decision making process will involve ensuring that specialist services such as delivery of primary health care, CAMHS or appropriate school support will be available in the new local authority area, and that the placement can meet the other developmental needs as set out in the care plan.

10.27 The child or young person's named IRO must be informed before any final decision is made to enable the IRO to discuss the proposed arrangements with the child or young person.

10.28 The decision to place a child out of area must be made by the Director of Children's Services or other officer nominated by the authority who must ascertain the child or young person's wishes and feelings. Under regulation 11(2)(d) the area authority (as defined in regulation 2(1)) in which the child or young person will be placed must be notified. The notification should contribute to the list of children and young people looked after in their area to enable the area authority to fulfil its statutory functions in respect of children in need living in their area.

10.29 In the case of an emergency out of area placement, the child or young person's family must be consulted, and the area authority and IRO notified, within 5 days of the decision to place.

10.30 Regulation 12 applies where a child is in the care of the responsible authority and they make arrangements for the child or young person to be placed outside England and Wales. In that case the responsible authority must take steps to ensure, as far as is practicable that the requirements imposed on the placement mirror those that would have applied if the child or young person had been placed in England. The child or young person's care plan must include the arrangements for the supervision of the placement.

Discharge from voluntary accommodation

10.31 The requirement to place within the local authority area does not apply where an accommodated child or young person is being placed back with

their parents or other person with parental responsibility or to a connected person as defined in the Regulations.

Emergency placements out of area

10.32 An emergency placement is likely to occur when a placement must be arranged out of hours by the Emergency Duty Team or must be made immediately (on the same day) as a consequence of the breakdown of the child's current placement or is an emergency placement made with a local authority foster carer under regulation 24.

10.33 In such circumstances it will not be possible to complete all the actions required in regulation 11(1) and (2). As a minimum the child's wishes and feelings must be ascertained and the local authority must be satisfied that the placement is the most appropriate placement available and consistent with the care plan ((2)(a) and (b)) The remaining requirements set out in 11(2)(c) and (d) must be undertaken within 5 working days. This is to ensure that an unsuitable placement which does not meet the child's needs does not drift and cause further harm to the child and/or create greater difficulties in bringing the child back to a more suitable placement within the area of the responsible authority/closer to home.

10.34 To mitigate the potential effect on the child or young person of an emergency placement out of authority which may be some distance away from their home, the responsible authority should only use providers with whom they have an existing contract such as a block contract and which has previously been visited by an officer of the responsible authority.

Sufficiency Duty

10.35 In order to reduce the need for children to be placed out of area for resource reasons, section 22G of the Children Act 1989 (which was inserted by section 9 of the Children and Young Persons Act 2008) requires local authorities to secure sufficient accommodation to meet the needs of looked after children in their area. Specific guidance on *Securing Sufficient Accommodation for Looked After Children* has been issued under section 7 of the Local Authority Social Services Act 1970 and under section 10 of the Children Act 2004.

10.36 Section 22G places a general duty on local authorities to take steps to secure sufficient accommodation within their area to meet the needs of looked after children and young people so far as reasonably practicable ("the sufficiency duty"). The aim of the draft statutory guidance on sufficiency 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.

10.37 The 1989 Act 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 in 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); and
- where a local authority makes arrangements to place a child whom they are looking after, section 22C(9) requires that placement to be such that the child is provided with accommodation within the local authority area, unless this is not reasonably practicable.

10.38 There is therefore, an implicit assumption within these duties that the local authority must ensure there is sufficient accommodation to meet needs locally. But prior to the introduction of the 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.

10.39 The 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 and young people within their local authority area where reasonably practicable;
- supporting the market to deliver more appropriate placements locally.

10.40 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 and young people are considered; and
- universal, targeted and specialist services are redesigned and configured to maximise outcomes for children and young people.

Clarification of what is meant by sufficiency

10.41 The guidance clarifies what is meant 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 young people 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 and young people.

Reasonably Practicable

10.42 Section 22G requires that local authorities show that they are taking steps at strategic level to secure accommodation so far as reasonably practicable. The guidance therefore also provides clarification on the statutory requirement to take steps that secure accommodation 'so far as reasonably practicable'. 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.

10.43 The guidance provides that the new sufficiency duty will require local authorities to:

- be active in managing their market, for instance by 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

10.44 The guidance sets out key expectations regarding the standard of commissioning that local authorities and their partners are expected to practice, to meet the sufficiency duty.

Placements outside England and Wales

10.45 A local authority may arrange (or assist in arranging) for a child or young person for whom they are providing accommodation by voluntary agreement to live outside England and Wales with the approval of every person who has parental responsibility for the child or young person (paragraph 19(2) of Schedule 2). In the case of a child or young person who is in care, the court's approval must be sought (paragraph 19(1) of Schedule 2). This may only be given if the court is satisfied:

- every person who has parental responsibility for the child has consented (or their consent is dispensed with under paragraph 19(5));
- the child has consented to living in the new country (if he has sufficient understanding);
- suitable arrangements have been made for the reception and welfare of the child in the new country; and
- living there would be in the child's best interests (paragraph 19(3) and (4) of Schedule 2).

10.46 Where the child is moving to another jurisdiction within the British Islands (i.e. the United Kingdom, the Channel Islands and the Isle of Man) the effect of the care order may be transferred to the relevant public authority in the receiving jurisdiction under the Children (Prescribed Orders – Northern Ireland, Guernsey and Isle of Man) Regulations. Local authorities may place a child within the British Islands but outside England and Wales. The Regulations do not apply outside England and Wales and regulation 12

therefore requires agencies to take steps to ensure that equivalent requirements are met where placements are made outside England and Wales.

10.47 The circumstances in which the question of a placement outside England and Wales may arise include those in which:

- (a) it would be in the interests of a child to be placed with a relative or other person elsewhere in the British Islands: Scotland, Northern Ireland, the Isle of Man or the Channel Islands;
- (b) a foster carer moves to a new address elsewhere in the British Islands and there are reasons in favour of continuing the placement; or
- (c) a foster carer is required to go overseas for a tour of duty or service posting and there are reasons in favour of continuing the placement.

10.48 Where it is clearly in a child or young person's interests and consistent with the plan for the child to be placed elsewhere in the British Islands, and the foster carer is approved under the Fostering Services Regulations 2002, appropriate arrangements for supervision should be made with the relevant authorities. Local authorities should follow the principles which apply to similar arrangements which may be made with area authorities in England and Wales to supervise a placement on their behalf.

10.49 Where a foster carer plans to move permanently or temporarily elsewhere in the British Islands, similar considerations apply as to any proposed move by a foster carer beyond the locality. The authority will need to weigh the advantages and disadvantages of continuing the placement, bearing in mind the views of the parents, the plans for the child or young person, the objectives of the placement and implications for contact. The wishes and feelings of the child or young person will be a critical factor; the consent of the parents (or those with parental responsibility) is essential where the child is not in care. Whether or not the child or young person is in care, parents should be involved in the decision-making process.

Placements outside the British Islands

10.50 Other factors arise when the proposed move is overseas, including the increased difficulty of continuing any contact arrangements and the difficulty of supervising and reviewing the placement. If the foster carer is in the armed services, it should be possible to make arrangements with the Soldiers, Sailors and Airmens Families Association (SSAFA). Where the responsible authority believe that supervision is not required, consideration can be given to the possibility of an application by the foster carers for a residence order. This will have the advantage of bringing before the court any conflict between the child's interests and wishes and feelings and the parent's wishes and feelings.

10.51 A decision to allow a foster carer to take a child overseas (except for a holiday) should not be made other than where there are exceptional circumstances and adequate and realistic arrangements can be made to

safeguard the child or young person's welfare and meet the requirements of the Regulations. It should be agreed only where the stay overseas is for a definite and limited period.

10.52 Draft guidance following the Court of appeal decision in *Re A (A Child)* [2009] EWCA 41 will be issued shortly for consultation.

Notifications

10.53 Regulation 13 sets out the requirements for notifications to individuals and organisations about the child or young person's placement. It is essential that those involved in the decision-making process are notified of the outcome so that they may have an opportunity to make any necessary arrangements or to make their views on the placement decision known. Consideration should also be given, in the light of circumstances of an individual case, of the need to notify people who have been involved in the child or young person's life but who are not specified in regulation 13.

Who should be notified?

10.54 Once the plan has been decided upon, it should be notified in writing to the parents, the child, other carers, representatives of other agencies involved with the child and others with a sufficient interest in the child. Good practice requires that the responsible authority's social worker explains personally to the parents and the child what the plan entails and the reason for reaching the decisions which are reflected in the plan. This should be done in addition to any explanations given during the assessment and planning process.

10.55 Where a child's or parent's first language is not English, an interpreter may be required. Sensory impaired children and adults may need a specific format of any formal written notification. For blind or visually impaired people it could be Braille, on tape or in large print. Deaf or hard of hearing impaired people have a range of communication needs depending on the type of deafness and the age of onset. Appropriate provision should be made for a child or parent with such communication difficulties. This may range from making available someone who is a clear speaker with understanding and knowledge of the speech and language difficulties of hearing impaired people, to an accredited sign language interpreter. Interpretation resources will also be required for a child who uses Makaton.

10.56 Notification must also be made to any person who has a contact order with a child whether under section 34 or section 8, and any person who was caring for a child immediately before the placement. Careful note should be taken of the provision in regulation 13(3) that in some circumstances the responsible authority may decide not to provide information to all or any of the person's specified 13(1)(b) to (e) if to do so would place the child or young person at risk of significant harm.

10.57 Regulation 13(2)(f) to (h) sets out the requirements to notify other agencies who will need to know about the placement: the PCT (or local health

board in the case of a child or young person living in Wales); the registered medical practitioner (GP); and any education institution attended by the child or young person which will include early years provision, school, college or Pupil Referral Unit. Notifications to area authorities and other agencies can be problematic as it may be difficult to know who is the appropriate person to notify in the authority or other agency at any point in time. Consideration should be given to setting up generic e-mail boxes for notifications which do not require a named person in the address.

10.58 Notification must also be sent to the child's IRO (regulation 13(2)(i)).

Format of Notification

10.59 The written notification of the arrangements for the placement should include:

- a summary of the proposed arrangements and the objectives covering
- details of the placement and its likely duration;
- arrangements for contact;
- who is responsible for implementing the plan;
- the role of the child or young person's parent on a day to day basis;
- arrangements for or issues of reunification; and
- contingency plans if the placement is unsuccessful.

10.60 Where a child is provided with accommodation by voluntary agreement, the notification should also set out the arrangements for the ending of the placement. The explanation given by the responsible social worker to the parents and the child or young person will supplement this. In exceptional circumstances where a child or young person is in care or subject to an emergency protection order, the carer's name and address may be omitted from the notice; this would be when the local authority has reasonable cause to believe that informing a person would prejudice the child's welfare as provided for in regulation 13(3). Where it is necessary to take this exceptional decision to safeguard a child or young person's interests, the circumstances and reasons should be recorded on the case record and notified to the parent in writing. The letter of notification should also refer to the complaints procedure which each local authority is required to set up under section 26(3). It will be helpful to enclose an information leaflet so that the parents, the child and others notified of the arrangements are aware of the channel open to them for making representations or complaints.

Termination of placements by the responsible authority

10.61 Regulation 14 applies where the responsible authority wishes to end a placement of a looked after child. It does not apply where the foster carer or children's home decide that they are no longer able to continue with the placement of a child.

10.62 Other than in circumstances set out at regulation 14(l) where provision for immediate placement with parents, expiry of temporary approval of a foster carer and decision to place in other arrangements is made in other parts of

the Regulations, the responsible authority may only terminate the placement following a review of the child's case in accordance with Part 6.

10.63 The provision is designed to ensure that the views of all the people concerned in the decision have been heard, including the child, where possible and appropriate, parents and other people who were notified when the placement was made. The review will provide the opportunity to consider whether supports and services could be provided which would avoid the need to end the placement. If that is not possible the review will provide a forum for considering what would be the most appropriate new placement for the child, taking account of any concerns which have led to the decision to end the placement.

10.64 Regulation 14(2)(a) requires the responsible authority to make provision for a new placement before terminating the current one, in accordance with their responsibilities under section 22C of the Act.

10.65 Where the responsible authority considers that there is an immediate risk of significant harm to the child or of serious injury to others, regulation 14(3) allows the child to be removed from the placement without fulfilling the requirements set out above to first find alternative accommodation and to inform the child's IRO and other specified people. Alternative accommodation must be found as soon as possible and the IRO informed as soon as is practicable. Notifications must be made within 10 working days of the termination of the placement.

Provision for different types of placement

11.1 Part 4 of the regulations makes provision for different types of placement which may be made under section 22C. These include:

- arrangements for a child subject to a care order to be placed back home with parents under the rehabilitation duty set out in section 22C(2);
- placements with local authority foster carers; specifically provision for the temporary approval of a connected person in the context of the duty set out in section 22C(6)(a) and emergency placement with a local authority foster carer; and
- general duties of the responsible authority when placing the child in other arrangements under section 22C(6)(d).

Placement of a child in care back with parents or other responsible person

11.2 Regulations 15 to 21 in Part 4 of the Regulations set out the requirements to be followed when a child subject to a care order (or interim care order) is being placed back with a parent, other person with parental responsibility or a person in whose favour a residence order was in place before a care order was made. The interim or full care order could have been made in any "family proceedings" defined in section 8(3) of the Children Act

1989, not just proceedings which started out as care proceedings.

Application of regulations 15 to 21

11.3 These Regulations will always apply when a child in care is placed for more than 24 hours with a parent, other person with parental responsibility or a person in whose favour a residence order was in force immediately before the care order was made. A parent includes a mother and father of the child whether or not married. A person with parental responsibility not being a parent is a guardian appointed in accordance with the provisions of section 5 of the 1989 Act or a person who has acquired parental responsibility through the making of a residence order or special guardianship order.

11.4 A child or young person who is looked after by a local authority but is not in their care by virtue of a care order are outside the scope of regulations 15-21 because they are accommodated by agreement with the birth parents and if the period of accommodation ends by virtue of the child or young person returning to parents, the child or young person ceases to be looked after by the responsible authority.

11.5 These regulations do not govern the placement of a child or young person with a relative or friend or other person connected to the child unless these persons have parental responsibility for the child by virtue of guardianship, a residence order or special guardianship or had such responsibility under a residence order immediately before the care order was made.

11.6 The regulations will apply to the placement of a child or young person who has entered care for a variety of reasons, for example, to a young person who has previously been in long term residential or foster care or to a child or young person who has spent a very short time away from home before placement back with a parent, other person with parental responsibility or a person in whose favour a residence order was in force immediately before the care order was made.

11.7 Alternatively a child may have remained at home pending court proceedings and remain there after the granting of a care order, or a child could be returned home directly after a court appearance. In all such cases these regulations will apply and all the requirements of these regulations must be complied with before a placement is made except in the circumstances outlined in this guidance where the placement is to be immediate. However, regulation 17(2) allows a child on an interim care order to remain with the parent before a decision under regulation 20 is made.

11.8 A short absence from home, such as a period of removal under an emergency protection order prior to the granting of an interim care order, will not prevent the local authority from deciding that to all intents and purposes the child is already living with the person with whom he may be placed under these regulations.

The assessment of parents to care for a child in care

11.9 A care order cannot be made under the 1989 Act unless the court is satisfied that a child is suffering or is likely to suffer significant harm, and that this is attributable to the care given to him or her or likely to be given to him or her not being what it would be reasonable to expect a parent to give; or the child being beyond parental control. It is therefore important to be especially careful to ascertain how far those factors that were identified as grounds for the current care order have been addressed before deciding whether a child or young person can be placed back with parents.

11.10 Schedule 3 to the Regulations sets out the matters to be taken into account when assessing the suitability of the parent to care for the child or young person. They include issues which are likely to have been raised in the assessment of the parent's capacity to care for the child or young person prior to or during proceedings. In addition to parenting capacity, the assessment will look at other areas of current and past family functioning and family history including all current members of the household. The assessment must include the wider family and environmental factors which will have an impact on the safe care of the child or young person, including the need to maintain contact with wider family members such as grandparents, past foster carers where appropriate and other connected people. These issues will be addressed in the core assessment which will provide information about the matters set out in Schedule 3 to these regulations. Statutory guidance on undertaking core assessments is set out in the Assessment Framework and the accompanying practice guidance *Assessing Children in Need* (Department of Health (2000)).

Parenting capacity

11.11 Factors to be given particular weight in assessing the parenting capacity of the parent with whom the child is to be placed include their *age* and their *physical, mental and emotional health*. We know that unless there are adequate protective factors in place, domestic violence, parental alcohol or substance abuse, uncontrolled mental health problems and severe learning disabilities can have an adverse impact on the parent's capacity to safeguard and promote the child's welfare. It is therefore particularly important to assess these issues and to explore whether, if they formed part of the grounds for a care order, the parent has had sufficient support in addressing them *before* a child returns home. The core assessment will identify the factors which impacted on the parent's capacity to meet the child's needs and the care plan will set out how these will be addressed. Progress on addressing these specific areas will form a key part of the child's review where there is a plan for a return home.

11.12 The assessment should also include the parent's capacity to care for a child and in particular to care for the particular child as identified in the parenting capacity domain of the Assessment Framework. Any criminal convictions or cautions should be recorded under 'Family History'.

Previous experience of looking after children

11.13 The assessment should include any available information about the parent's *previous experiences of looking after children*. Where the parent has other children or young people of their own who are subject to care or adoption orders, earlier case records should be explored to ascertain the circumstances which led to social work involvement with these children, and any indications that the capacity of the parents to bring up children has changed. A number of parents who have previously had a child placed for adoption do go on to successfully parent a subsequent child, but success is dependent on their having overcome or removed those factors which previously inhibited their parenting capacity.

Family and environmental factors

11.14 The core assessment takes account of those strengths and weaknesses within the child's wider family and environment, such as relationships with the extended family and the community and housing, or income and services available that are likely to impact on the parent's capacity and/or the child's development. Parenting is not undertaken in a vacuum, and as well as assessing the parent's living standards and the accommodation in which the child will be placed, it is particularly important to identify the other members of the household with whom the child will come into contact (including children and current partners) and their potential relationship with the child.

11.15 A formal assessment of suitability should be undertaken for all members of the household who are aged 16 or over. It is also important to assess the relationships between the parent with whom the child will live, and other adults who have a significant role in the child's life, such as other persons with parenting responsibilities and interested adults such as grandparents for whom contact orders may have been granted.

11.16 These regulations and this guidance seek to provide a framework for good professional practice in relation to such placements. Local authorities should consider carefully whether a placement under these regulations is the only way to achieve placing the child with a parent or person who has or had parental responsibility. Where it is decided that a child's best interests will be met by such a placement, the local authority should look again at why it is considered that the care order is still required. It may be that an arrangement can be negotiated between the parent and the local authority (involving the child and other significant individuals) that would enable the local authority to agree that application to discharge the care order is appropriate. Such an arrangement would need to include agreement on both the level of support and supervision by the local authority and cooperation by the parent, with commitment from all involved to working together in the child's best interests. If such agreement can be reached and the court makes an order to discharge of the care order then these Regulations will not apply.

11.17 In many cases where it is decided that a placement under these

regulations is the right approach, it will be as part of the progress towards discharge of the care order. The management of the placement should aim to enhance the parent's role and support the family relationship with that aim in mind. Even in those cases where the discharge of the care order is not a foreseeable option, the possibility should be constantly reviewed and the aim should be to build a genuine working partnership with the parent. It is difficult to envisage a successful placement where this is not achieved.

11.18 These placements will be subject to the requirement for a placement plan in accordance with regulation 9 and Schedule 2.

11.19 The child will remain looked after for the duration of the care order and the case is required to be reviewed in accordance with regulation 34 (review of the child's case).

Immediate placements with parents

11.20 In some cases, the local authority will recognise that it is in the best interest of the child to make an immediate placement under these Regulations. For example, in the case of an unforeseen breakdown of a foster placement requiring the child's immediate removal, the least traumatic move for the child may be to place them back with a parent. When an immediate placement is made all these regulations will apply but regulation 20 provides for only the following checks to be carried out before the placement:

- i) An interview with the parent to obtain as much of the information specified in Schedule 3 as possible. Practitioners should also seek to meet with all other members of the household who are over 16 in order to have a complete understanding of the household composition and relationships before placing the child. This is particularly relevant to identifying issues such as domestic violence and substance misuse which may impact on the child's safety;
- ii) The assessment of the parent and a review of the child's case must be undertaken within 10 working days of the child being allowed to live with the parent. This will enable early identification of any difficulties including any convictions or cautions or other unsuitable adults in the household. An early review will enable the parent, social worker and other practitioners involved with the child's case to share information about progress and any difficulties which may impact on the child's welfare;
- iii) Within 10 days of the completion of the assessment a decision must be taken as to whether the placement should be confirmed or not in accordance with regulation 20;
- iv) If the child is to remain with the parent, a placement plan is required to be drawn up in accordance with regulation 9.

Support and services

11.21 Following the assessment of the parent's capacity to meet the child's

needs, the responsible authority must set out in the child's care plan, the services and other support which will be provided to the parent and child to meet the identified needs. The effectiveness of these services and any other support in addressing the needs of the child and parenting capacity will be considered as part of the review of the child's case.

Placements with local authority foster carers

11.22 The duties set out in section 22 apply to all decisions by local authorities in relation to foster care of a child. This is reinforced by section 22C(5) and (6)(b) which requires authorities to be satisfied that placement with foster carers is the best way of meeting their welfare duty towards a child in their care and that the specific placement is the most appropriate, having regard to all the circumstances. In choosing the most appropriate placement, authorities can face a difficult task in meeting the assessed needs of the child. There are often practical limitations on choice which may mean that the ideal placement is not available. Regular reviews of recruitment and training needs and forward planning to meet identified needs should mean that the type of foster home needed will be more likely to be available.

11.23 The making of arrangements in advance where possible will allow greater opportunity for the child's needs to be carefully assessed and a plan developed before placement. Hasty or immediate placements should be avoided as far as possible. Contingency planning for a possible placement while efforts continue to keep a child at home may mean a more successful and less disturbing transition to a foster placement if the child must be accommodated.

11.24 Regulation 23 sets out the conditions which must be complied with before any placement with a local authority foster carer may be made. These require that:

- the foster carer is approved by the local authority; or
- is approved by another fostering services provider provided certain conditions are satisfied (set out below);
- the terms of the foster carer approval are consistent with the proposed placement; and
- the foster carer has entered into a foster care agreement in accordance with regulation 28(5)(b) of the Fostering Services Regulations 2002 ("2002 Regulations").

11.25 The conditions set out in regulation 23(3) require that the fostering service provider by whom the foster carer is approved consent to the placement, that any other local authority whom has a child placed with the foster carer consents to the placement and the requirements of regulation 28 of the 2002 Regulations are complied with.

Emergency placement with a local authority foster carer

11.26 There will, however be occasions where a child must be placed in an emergency. Regulation 24(1) makes provision for an emergency placement with a local authority foster carer. Where the responsible authority have to place the child in an emergency, they may place the child with any local authority foster carer who has been approved in accordance with the 2002 Regulations, even if the terms of that approval are not consistent with the placement. When the period of 24 hours expires, the placement must be terminated in accordance with regulation 24(2) unless the foster carer's terms of approval have been amended.

11.27 These powers to make emergency placements are intended to be used exceptionally in unforeseen circumstances and are not intended to be used in situations where contingency plans could properly have been made. Foster carer assessments are designed to identify the age, number or needs of the children to whom the foster carer is most likely to offer the best care. Research evidence consistently shows that placement outside the terms of approval are significantly more likely to result in placement breakdown. Where the responsible authority wishes to amend the terms of approval to enable the child to remain with the carer, careful consideration must be made by the fostering panel to ensure that the carer has the capacity to meet the child's needs.

Temporary approval of a connected person

11.28 There will be circumstances where the most appropriate placement for a child is with a connected person in accordance with section 22C(6)(a) and (7)(a), to enable a child to live with a relative or friend. If the need for such a placement is urgent and it is not possible to fulfil all the requirements of the 2002 Regulations in approving the connected person as a local authority foster carer before placing the child, regulations 25 and 26 set out the arrangements for the temporary approval of a connected person to allow an immediate placement. As with any other placement the responsible authority must be satisfied that the placement is the most suitable means to safeguard and promote the child's welfare.

11.29 Regulation 25(1) makes clear that subject to the successful completion of the assessment/checks set out at 2(1)(a) to (d) the connected person may be immediately approved as a local authority foster carer for a period not exceeding 16 weeks. This time period has been set to allow sufficient time for a foster carer approval process to be undertaken, including any criminal records checks required.

11.30 Regulation 26 sets out the circumstances in which exceptionally the period of temporary approval may be extended. These circumstances are either where the approval process has taken longer than anticipated and in these circumstances the temporary approval may be extended for a further 8 weeks, or where the connected person has not been approved following the assessment process and seeks a review of the decision through the Independent Reviewing Mechanism (IRM). In the latter circumstances the temporary approval will continue until the outcome of the review is known.

11.31 These regulations are intended to be used exceptionally and in circumstances which could not easily have been foreseen. The power is to be used most usefully where it is clearly in the child's interest to be placed with or remain in the care of a familiar figure in reassuring surroundings.

11.32 A 'connected person' means a relative (as defined in section 105 of the Children Act 1989, as amended by section 75 of the Civil Partnership Act 2004), friend of other person connected with the child.

11.33 These regulations make significant changes to the arrangements for these placements. The temporary approval in the first instance lasts for up to 16 weeks to reflect realistic timescales for obtaining appropriate (CRB and other) checks. In exceptional circumstances where it has not been possible to complete the approval within 16 weeks, the authority may agree a further period of up to 8 weeks. When these time periods expire and the connected person has not been approved by the authority in accordance with the 2002 Regulations, the responsible authority must arrange for an alternative placement and remove the child from the connected person in accordance with regulation 26(6).

11.34 The assessment requirements before the child may be placed under these arrangements are set out in regulation 26(a) to (d). These are the minimum requirements for assessing the connected person's suitability within what may be a short time frame. Every effort should be made to maximise the level and quality of information available to support the decision as to whether the person should be temporarily approved. In particular the assessment must assess the quality of any existing relationship between the child and the proposed carer. The intention of this provision is that the connected person has an existing relationship with the connected person knows the child. There may be some circumstances where the connected person is known to the child's parents or other person with parental responsibility but is not known to the child. In such circumstances the child must be introduced to the connected person and the proposed accommodation in order for the child's wishes and feelings to be appropriately ascertained.

11.35 The home must be visited by the social worker as part of the assessment as to the suitability of arrangements. This to ensure that the physical environment of the home and space available is suitable for that particular child and to identify the need for additional resources such as equipment for a baby or very young child or any specialist equipment to meet the needs of a disabled child in accordance with the requirement set out in this guidance.

11.36 The home visit will also provide the opportunity to more clearly identify the composition of the household and the nature and quality of the relationships between the residents as well as their view about the proposed arrangement for the connected person to care for the child.

11.37 The child's wishes and feelings about the proposed arrangements must

be ascertained, subject to understanding and wherever possible an opportunity provided for the child to visit the connected person's home before the decision is finalised. The views of the child's parents and others with parental responsibility must also be obtained.

11.38 Because the placement will have been made without the benefit of a full fostering assessment, the visiting requirements are higher than for other foster placements. Further guidance on visiting requirements for looked after children are set out in regulations 29 to 33.

11.39 As the connected person will be temporarily an approved foster carer they will be required to comply with the 2002 Regulations and the requirement for a care plan and placement plan remains. A connected person approved under these regulations will be entitled to the same supports and services including any fees and allowances payable/available within the relevant fostering provider/local authority scheme in line with the requirements of the Munby judgement.

Regulation 28: Placement of a looked after child in "other arrangements"

11.40 The assessment of the child's needs to inform their care plan may conclude that for some children, these needs will be best met by a placement in "other arrangements".

11.41 These placements may not be regulated under the Care Standards Act 2000 and as a result will not be inspected by Ofsted. In these circumstances, it will be essential that the local authority takes every step to establish that the child's needs are matched to the services provided by the placement. For example, an eligible child may be placed in "supported lodgings" to offer them opportunities to take on more responsibility for their own care, in order to prepare them for the move to more independent accommodation when they reach legal adulthood. In this case, the local authority will have to ensure that the support the accommodation provides will enable the child to develop the skills necessary to cope with greater independence in the future.

11.42 Some unregulated settings might provide suitable placements for looked after children. These might include:

- placements in a family or domestic setting, where the adults responsible for their care are not approved as foster carers (supported lodgings);
- foyers and other kinds of supported living hostels;
- placements in independent accommodation with "floating support", where housing support workers make regular visits to accommodation to assist the child to develop the skills needed to manage in their own tenancy in future;
- other unregulated settings that provide support to the child.

11.43 In every case, before making the placement the local authority must establish that the accommodation is suitable, taking into consideration all the issues set out at regulation 28 and Schedule 6 of these regulations. These issues are:

- general/state of repair;
- safety;
- location;
- personal support;
- tenancy status;
- the views of the child about the suitability of the accommodation concerned.

11.44 The primary issue to be addressed in making each and every placement in “other arrangements”, just as in any other placement setting, will be how making this placement meets the assessed needs of the individual child.

11.45 Where a move to “other arrangements” takes place as part of the pathway planning process to prepare a looked after child for the transition to adulthood, then this move will represent a significant change to the child's care plan. Such a move should only take place following careful planning that will have been scrutinised at the child's review meeting, chaired by their personal IRO.

11.46 The review must establish that the child's care plan, which will include their pathway plan, is up to date. The plan must indicate how it is intended that the proposed move will meet the child's needs - e.g. that the support to be provided is adequate and will help to develop the child's personal skills. The review too must be satisfied that the child has been properly prepared and will be able to manage in new accommodation. It should be routine practice that the child will have visited proposed new accommodation so that they're able to take an informed view about its suitability. The move should maintain as much stability as possible and, in particular, enable the child to pursue their chosen education, training or employment options. The prospective accommodation providers should participate in this crucial review meeting. This will allow the review to establish whether the expectations about what the move is intended to achieve will realistically address the child's needs as set out in the proposed plan. As at every other review, the child should be supported to take an active part in the meeting, so that all involved can understand how the move is intended to support the child's future aspirations. However, the child's wishes and feelings are not determinative and decisions about the child's readiness to move must be taken in the context of the overall assessment of the steps necessary to respond to their welfare.

11.47 Regulation 12(3)(c) requires that, where a child is placed in “other arrangements”, then the local authority must draw up a placement plan with

the person responsible for supporting the child in the accommodation. This should be the person who will have the most day-to-day contact with the child, i.e., the supported accommodators, hostel manager etc. Where the child is in receipt of a floating support service or services delivered by a housing agency, then both the key housing support worker and the manager of the housing scheme should be involved in drawing up the placement plan.

11.48 The placement planning process should involve an exchange of all the necessary information included as part of the child's pathway plan, so that the accommodation provider has a full understanding of the child's needs and their role in responding to these.

11.49 Schedule 3 sets out all the issues that must be included in a Placement Plan. Where children are placed in "other arrangements", it will be essential that the provider appreciates the arrangements that the local authority proposes to put in place to make sure that the child is adequately supported. The placement plan must be explicit about the respective roles and responsibilities of the placement provider and the child's social worker, their IRO and of other staff employed or commissioned by the authority to contribute to the plan for the child's care.

11.50 The plan must include:

- the respective safeguarding responsibilities of the provider and local authority;
- the frequency of visits the child can expect from their responsible authority;
- communication arrangements between the provider and the local authority;
- the provider's responsibilities for notifying the child's social worker and accountable staff of the authority of any significant change in the child's circumstances; and
- arrangements for giving notice of intention to terminate the placement (along with the authority's responsibilities for convening a review of the child's care and pathway plan where there is a risk of the placement being terminated).

Placement Plans

12.1 Regulation 9 sets out the requirement for a placement plan to be drawn up before a child is placed by the responsible authority. The purpose of the placement plan is to set out in detail how the placement is intended to contribute to meeting the child's needs as set out in the care plan. The placement plan replaces the foster placement agreement required by regulation 34(3) of the 2002 Fostering Services Regulations, which is amended accordingly.

12.2 The placement plan provides the framework for ensuring that there is clarity for the child and carer (whether a foster carer or registered provider),

about how the day to day parenting tasks will be carried out between the carer, registered provider and responsible authority, and responsibility for the child's upbringing and financial arrangements.

12.3 An effective placement plan will also ensure that the carer receives essential information about the child, including health and education needs and any emotional and behavioural difficulties the child may have, how these may affect the child in the everyday and appropriate strategies for responding to these difficulties. In particular, it is important to identify any behaviours which have been of concern to a child's previous carer and which have led directly to a placement breakdown.

12.4 The purpose is not to label children but to ensure, firstly, that the child is going to an appropriate carer able to meet those particular needs and, secondly, that the child is not put in a situation which they can be harmed or cause harm to others. Only by identifying difficulties as well as strengths is it possible to ensure that the child and carer receive appropriate help and treatment, if necessary for the child.

12.5 Clarity and specificity in the placement plan will ensure that the carer understands the child's likes, dislikes and routines and reduce the disagreements which may arise in situations where decision making on behalf of children may be the responsibility of different people at different levels in the organisation such as the foster carer, the social worker, or resources panels. Lack of clarity about who does what can lead to role confusion and placement breakdown.

Timescales for making the placement plan

12.6 In many cases the need for a placement can be anticipated, a suitable placement identified and a placement plan drawn up in advance. Regulation 10(2) states that where this is not possible, a placement plan must be drawn up within 5 working days.

Information the carer needs in order to look after the child

12.7 The carer cannot provide an environment that meets the child's needs if they do not have the information which enables them to understand the child, their history and family circumstances and how the child has related to any previous carers. Nor can they work in partnership as members of the team around the child if their role and the division of responsibilities is unclear. They require a full understanding of the background and history of the child on whose behalf they are undertaking an exacting and responsible role and who will need their help in coping with living away from home.

12.8 Schedule 2 to the Regulations sets out the information which must be provided in the placement plan. The carer will need to know about the child's family, their race, religion and culture, the language spoken at home and any disabilities or other special needs. They will generally need to know the circumstances leading to the child becoming looked after, and the child's

previous experiences both before and during the care episode. In particular, they need to know what the long term plan is for the child and its timeframe, what the objectives are for the specific placement that they are offering and how these fit within the care plan. Carers should be given a copy of the care plan and be clear about their role in implementing it. Within the context of the care plan they need a realistic estimate of how long the placement is expected to last.

Information sharing

12.9 The social worker should discuss with the parents and any other previous carers, and with children and young people (having regard to their age and understanding), the information which is to be given to a carer and why. Where there is a special reason for withholding significant information, the reason should be recorded. In some circumstances less information, about the child's history for example, may be needed in connection with placements made within a planned series of short term breaks. There is no requirement for written information to be issued when a child is placed under the emergency or immediate placement provisions, but authorities should make sure that the emergency or immediate foster parent has sufficient information, including health information, to keep the child and other people in the household safe. All parties should be aware that if carers are to work in partnership both with parents and practitioners, they need to feel that they are sufficiently trusted with sensitive information and regarded as valued members of the team around the child.

12.10 Some of the information which carers need may be difficult or embarrassing; there is also an obvious temptation to withhold negative information about, for instance, a child's past behaviour for fear that carers may not agree to a placement being made, or a child will be unfairly labelled. However, a placement is much more likely to succeed if carers know in advance about behaviours that have been a cause for concern in the past and how these have been successfully (or unsuccessfully) managed. The local authority should inform carers of past behaviours such as fire setting or sexually abusive incidents which might put their home or their family at risk. Failure to do so may place the authority at risk of legal action. Knowing that a previous placement has broken down and why is also important information for carers who have to try to understand how a child is attempting to make sense of difficult and confusing experiences. It will be important to discuss with the child what information needs to be shared and why and how it will contribute to enabling the child to stay safe.

12.11 Many children find it difficult to settle in a strange environment, feelings which are likely to be exacerbated if the start of the care episode has been rushed or traumatic. Carers can help children feel at home if they can maintain some of the routines to which they have been accustomed. It is therefore helpful to record information about bed times, meal times and so on, which can be passed on to carers.

12.12 Carers also need basic information about how to access support: they

need the names and contact details of the social worker, the family placement worker, the child or young person's independent reviewing officer, independent visitor and, if applicable, their personal adviser. They need to know who to contact outside office hours and how; what specialist help the child is receiving (for instance, extra help with school work) and how this can be maintained. Other key names, addresses and contact details should include the school, the designated teacher for looked after pupils, the child's GP, dentist and any other professionals involved with the child's care.

12.13 Clear arrangements also need to be made concerning remuneration: not only do carers need to know from the outset how much financial support they will receive and the arrangements for payment; they also need clear information about how exceptional items such as school trips will be paid for. In addition to maintenance payments, the authority should consider with the foster parent whether there are any particular needs arising from the placement such as bedding, bedroom furniture, equipment, or clothes. A good deal of equipment may be needed where a group of siblings is placed in a household not equipped to cater for large numbers. Children with special needs frequently involve extra expense and require special equipment. Responsible authorities have a duty to consider the suitability of the carers' home for a disabled child in their placement duties (see section 22C(8)(d) of the 1989 Act).

12.14 Authorities should be realistic and sensitive in responding fully and promptly to a need for extra expenditure, always bearing in mind that the responsibility for providing for the child lies with the authority and his parents, not the foster parent. Failure to clarify financial arrangements or to reimburse carers for necessary expenditure can jeopardise the relationship between the carer and the authority.

Day to day arrangements

12.15 Schedule 2 (paragraphs 1-8) sets out the detailed information required concerning the child or young person's health and education, contact arrangements including changes to contact arrangements, visits by the responsible authority and any arrangements for visits by an independent visitor. The carer needs to know what their role will be in safeguarding and promoting the child's welfare across each of the seven dimensions of development. They need to know the content of the child's personal health and education plans and understand their role in implementing these. It is important to ensure they have adequate information about allergies, current medication and the treatment of any health conditions. It is also easy for details such as dates of appointments with specialists to get lost when a child changes placements. Information about additional educational support provided through statements of special educational needs and the PEP should also be included. Statements can also be overlooked if a child changes school. Carers need to be fully informed about any existing arrangements for specialist services such as psychotherapeutic support or extra tuition, and be clear both about their responsibilities in ensuring that these are maintained and their role in helping the child to follow any agreed

programmes.

12.16 Carers need to be aware of the child or young person's religion and culture and the manner in which these are reflected in their daily life, including any help the child will need to maintain these links (schedule 2 paragraph 3(2)). Even where the child does not have a formal religion they may have needs for a spiritual dimension to their life and should be supported and encouraged to develop it. These experiences contribute to the child's sense of identity. Even where placements are well matched, there may be profound differences between carers and birth families in matters such as religious observance, dress codes and diet. These issues should be treated sensitively and arrangements to preserve and strengthen the child's links with the religious and cultural practices of their birth family agreed, particularly in circumstances where the child is accommodated and/or where the plan is for the child to return to live with parents.

12.17 Arrangements for contact between children, birth parents, siblings who are looked after and other relatives and friends need to be clarified and discussed with carers. Carers need to know the provisions of contact orders made under section 8 of the 1989 Act, and how any changes to these arrangements should be notified; they also need to be aware of any person with whom contact is discouraged and the reasons for this, and be given a copy of any orders made under Section 34 of the 1989 Act which prohibits contact with a child in their care. If the child or young person has been authorised to be placed for adoption, section 26 of the Adoption and Children Act applies.

12.18 While there is an expectation that carers will facilitate reasonable contact, social workers need to be aware of the difficulties that can arise when birth parents (and other relatives) have extensive contact with children in the carer's home; contact arrangements should be sensitive to the needs of carers and their families.

Shared responsibilities and consents

12.19 When children are accommodated under Section 20, the placement agreement must identify how responsibilities will be shared between parents, children and the authority. Schedule 2 paragraph 3(3)(a) and (b) requires the placement plan to set out the respective responsibilities of the responsible authority and the child's parents or other person with parental responsibility and any delegation arrangements to the responsible authority from the child's parents. It is important to discuss with parents those areas of responsibility they are willing to delegate to the authority and those that they wish to retain.

12.20 Conflicts tend to arise over intensely personal issues that challenge a parent's authority, such as who can give a young person permission to stay out late with friends or who can agree to a younger child having their ears pierced or changing their hairstyle. Carers also need to know how their responsibilities relate to those of social workers and other professionals.

12.21 Common areas of confusion need to be clarified in advance and decisions recorded. These include who should attend school parent evenings (the parent, the carer or the social worker) and the circumstances under which the carer can give approval for the child to take part in school trips or stay overnight away from the placement without needing to refer back to the authority (Schedule 2 paragraph 3(4)). Looked after children find restrictions on overnight stays with school friends particularly burdensome, and it is helpful to identify from the start of the placement any people with whom the child might be allowed to stay without the need for further permission.

12.22 Schedule 2 paragraph 3(c) sets out the requirement to plan for the expected duration of the period of accommodation and the steps which will be taken to bring the arrangements to an end, including arrangements for the child to be rehabilitated with a parent. This will reflect the child's needs identified in the care plan in the context of the factors which affect the parent's capacity to meet those needs and the services and supports being provided to improve parenting capacity.

12.23 Even where a child is subject to a care order, parents retain parental responsibility for the child, although the local authority may determine how it is exercised. It will be important to include birth parents in these discussions so far as is possible and appropriate for the child, in order to enable them to continue to play a part in their child's life.

12.24 Where a child is in a placement which is intended to be permanent, as reflected in the care plan, it is likely that the placement plan will reflect greater levels of delegated responsibility to the carers.

12.25 Schedule 2 paragraph 3(d) requires the placement plan to record the circumstances where a child is over 16 and agrees to be provided with accommodation under section 20.

Placement plans for placements made under regulation 15

12.26 Schedule 2 paragraph 2 sets out the requirement for additional information where the child is placed under the placement of a child in care with parents etc provisions (regulations 15-21). In the case of such placements the placement plan must include:

- details of the supports and services which will be provided to the parent during the placement;
- the need to inform the responsible authority of any changes in circumstances;
- requirements concerning the confidentiality of the information provided about the child and family;
- circumstances for obtaining approval for the child to live in a household which is not the parent's;
- arrangements for requesting a change to the agreement;
- circumstances in which the placement will be terminated under

regulation 20(c)(ii).

12.27 Issues concerning consent to medical examination or treatment for looked after children have been discussed in the section on health care above.

Short Term Breaks

Introduction

13.1 Short breaks are part of a continuum of services which support disabled children and their families. They include the provision of day, evening, overnight and weekend activities for the child or young person, and can take place in the child's own home, the home of an approved carer, or in a residential or community setting.

13.2 Short Breaks Practice Guidance: how to safeguard and promote the welfare of children in need/disabled children using short breaks, issued for consultation by DCSF, describes in greater detail the processes of assessment, planning and review which apply to children and families provided with short breaks. The approach described is proportionate to the needs of families and the services provided to meet these needs.

13.3 The provision of accommodation is one of the range of services which will be available and will mostly be appropriate in families with higher levels of need. Following an assessment of the needs of the child and family the local authority will wish to consider under which legal provision accommodation will be provided.

1. The 1989 Act family support services including accommodation

13.4 Part 3 of the 1989 Act sets out local authorities' powers and duties to provide support services for children in need and their families. Section 17 requires local authorities to provide a range of services including accommodation to assist children in need. Section 17(1) gives the guiding principles of family support which should 'safeguard and promote the welfare of children in need', and 'so far as is consistent with that duty...promote the upbringing of such children by their families'. The definition of children in need includes children who are disabled within the meaning of the 1989 Act. Local authorities provide a range of short break provision under section 17.

13.5 Local authorities should always be clear about the legal basis on which services are provided and their decision should be informed by their assessment of the child's needs and take account of parenting capacity, the wishes and feelings of the child and his parents and the nature of the service to be provided.

Provision of accommodation

13.6 This guidance amends LAC(2002)13, guidance on accommodating

children in need, only in respect of providing accommodation to children for short breaks. The rest of the LAC continues to apply.

13.7 Local authorities can provide short break accommodation under section 17(6) (a power to provide accommodation as part of a range of services) or under section 20(4) which states '*A local authority may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare*'.

Looked after status

13.8 A child is not "looked after" within the meaning of the 1989 Act¹ if the child receives a short break under section 17(6).

However, if the accommodation is provided:

- (a) under section 20(4); and
- (b) for a continuous period of more than 24 hours,

then the child is "looked after" by the authority for the period in which the child is accommodated.

13.9 If the child is looked after, then the placement must meet the criteria set out in section 22C, i.e. be a placement with local authority foster parents or in a registered children's home; or other appropriate arrangements. In these circumstances, the placement must comply with the Regulations which require the local authority to make short and long term arrangements for the child's care (i.e. have a care plan) amongst other matters. Regulation 50 of the Regulations specifies the arrangements which must be made in respect of a child who receives a series of short breaks in the same placement.

13.10 If the short break is for 24 hours or a shorter period, the child is not looked after even if the accommodation is provided under section 20(4).

13.11 Where the local authority provides a sitter or overnight carer in the *child's own home*, the child is not being provided with accommodation by the local authority and the authority is therefore providing the short break service under section 17.

Approach to be taken by local authorities when deciding whether to provide short breaks accommodation under section 17(6) or under section 20(4)

13.12 Where accommodation is provided for a continuous period of 24 hours or more on any single occasion, it will be essential for the local authority to determine the legal basis on which accommodation is provided, as this will determine whether the child becomes looked after or not. The key question to pose is whether the acquisition of looked after status is likely to lead to better outcomes for the child or whether the assessment, planning and review

¹ Section 22 of the 1989 Act sets out what the expression "looked after" means and the general duties that the authority owes to a child who is looked after.

process for other services for children in need will be sufficient. Before making, and when reviewing, a decision about whether to provide accommodation under section 17(6) or section 20(4) there should be a careful assessment of the child's and family's needs that addresses the following considerations:

- particular vulnerabilities of the child, including communication method;
- parenting capacity of the parents;
- the length of time away from home and the frequency of such stays. The less time the child spends away from home the more likely it is to be appropriate to provide accommodation under section 17(6);
- whether short breaks are to be provided in more than one place;
- potential impact on child's place in the family and on primary attachments;
- observation of child (especially non-verbal children) during or immediately after the break by person familiar with mood and behaviour of child (parent, school staff);
- views of the child and views of parents. Some young people and parents may be reassured by and in favour of the status of a looked after child. Other young people and parents may resent the implications and associations of looked after status;
- extent of contact between short break carers and family and between child and family during the placement;
- distance from home; and
- the need for an Independent Reviewing Officer ("IRO") to monitor the child's case and to chair reviews.

13.13 Where any child is provided with accommodation frequently (at least twice a month) for a continuous period of 24 hours or more, it will usually be appropriate for the child to be accommodated under section 20(4) of the 1989 Act and therefore to be looked after.

13.14 There will be some children whose package of short breaks will be such that their welfare will be best safeguarded by being a looked after child for the periods in which they are away from home. This will include children:

- who have substantial packages of short breaks sometimes in more than one setting;
- where there are lower levels of contact between the child and his family while he is away from home; and
- where family resources are very stretched and the family may have difficulties providing support to their child while he is away from home or monitoring the quality of care he is receiving.

13.15 In such cases, in consultation with parents, the local authority may decide to accommodate the child under section 20(4). Providing

accommodation under section 20(4) has no effect on the parents' parental responsibility and, of course, parents can remove the child from the accommodation at any time. They will retain overall responsibility for the health, education and longer term planning for their child, although they may ask for assistance from the local authority. The assessment may have identified areas where additional support may be helpful.

Main differences between accommodation under section 17(6), under section 20(4) where regulation 50 applies, and under section 20(4) where regulation 50 does not apply

If a child is provided with accommodation under section 17(6)	If the child is provided with accommodation in a pre-planned series of short breaks in the same place, under section 20(4) where regulation 50 applies	If a child is provided with accommodation under section 20(4) where regulation 50 does not apply
<ul style="list-style-type: none"> - the child is not looked after - the Care Planning, Placement and Case Review Regulations do not apply (and therefore there is no requirement to appoint an IRO) - a child in need plan is required in accordance with the Framework for the Assessment of Children in Need (for further detail please see short break practice guidance) - it is good practice that reviews should be at least every 6 months or more often if required 	<ul style="list-style-type: none"> - the child is looked after - modified planning arrangements apply and there must be a short break plan addressing those issues key to the safe care of the child - an IRO must be appointed - the child's case must be reviewed within 3 months of the start of placement and then at intervals of no more than 6 months - the first visit must take place within 15 days of placement or as soon as practicable thereafter. Subsequent visits must be at intervals of no more than 6 	<ul style="list-style-type: none"> - the child becomes looked after - the Care Planning, Placement and Case Review Regulations apply to the placement so the authority must make a care plan - an IRO must be appointed - the child's case must be reviewed regularly. The first review must be within 20 days of the start of the placement, the second no more than 3 months after the first and subsequent reviews no more than 6 months after the previous review - visits must take place in accordance with regulation 29

	months	
The provision of accommodation under section 17(6) or section 20(4) does not affect parental responsibility		

2. Regulation of short breaks for looked after children

13.16 The Care Planning, Placement and Case Review Regulations are modified in their application to short breaks in recognition of the continuing active role played by parents. The modifications will reduce the administrative load and ensure requirements are more proportionate to the needs of children in short breaks.

13.17 Regulation 50 of the Regulations allows for a series of pre-planned short breaks for a particular child in the same placement to be treated as a single placement for the purposes of applying the Regulations. In addition, the planning arrangements required by the Regulations are modified in respect of short breaks so that they are more appropriate for situations where the child's parents are properly planning for their child's future and the child is provided with a series of short breaks as a measure of family support. Regulation 50 only applies where no single placement lasts more than 14 days and the total of short breaks in one year do not exceed 60 days. Where children are away from their parents for longer periods, the Regulations will apply with full force to each separate placement.

Short break planning requirements

13.18 The purpose of the plan for a child in a short break is substantially different from the plan for a child who is looked after continuously. In short breaks the parents have primary responsibility for planning their child's future, although the family may often seek advice and support from the local authority in meeting their child's needs. The short break care plan therefore should focus on setting out those matters which will ensure that the child's needs can be fully met while the child is away from his parents.

13.19 The short break care plan should address:

- the child's health, emotional and behavioural development including full details about any disabilities and specific communication needs the child may have, so that those caring for the child may do so safely and sensitively;
- arrangements for contacting the parents as necessary, in particular, an emergency contact number;
- the child's leisure interests including activities the child particularly likes or indeed does not like; and
- how the carers, as appropriate, promote the child's educational achievement. For example, visits undertaken by the carers with the child may complement the child's school learning, or some help with

homework may be required especially if the child goes to school directly from the short break before returning home.

13.20 In addition each short break care plan must include, as appropriate, information set out in paragraphs 3 and 4 of Schedule 2 to the Regulations. There is not a requirement for a separate placement plan for children looked after in a series of short breaks, but the short break care plan must address the following questions insofar as they are appropriate to the placement in question:

- the type and address of the accommodation and the name of the person responsible;
- how long the arrangement is expected to last and steps to take to end or change the arrangements;
- relevant aspects of the child's history and information about his religious and cultural background and how such matters affect the child's daily routine;
- any delegation of parental responsibility to the responsible authority or to those who have care of the child, for example in the case of a medical emergency for a child with complex health needs, or participation in specific activities;
- financial arrangements for the placement; and
- when the child is placed with a person who is approved as a local authority foster parent, confirmation of the foster care agreement.

13.21 Depending on the child's specific conditions it will be necessary to undertake detailed risk assessments in respect of moving and handling, and specific training about certain medical procedures which the parents undertake at home. Detailed information about the child's likes, dislikes and routines can help the carers meet the child's needs effectively and help the child adapt quickly to being away from home. Short breaks will only be successful in providing a positive new experience for the child and a genuine break for the parents if the carers have all the necessary information to meet the child's needs fully and safely. This consideration should determine the amount of detail necessary to include in the plan under the headings above.

13.22 The short break care plan should be signed by the child's parents, by the responsible authority, by those providing the care, and where appropriate, by the child or young person.

Consultation

13.23 Parents must be fully involved in all aspects of agreeing the short break plan. As far as is practicable, children and young people should also be involved in agreeing the plan. Disabled children use a range of communication methods. It is essential that staff skilled in these different methods of communication ensure that the child's voice is central to the process of assessment, planning and review which should ensure that the

child's needs are fully met.

Visits

13.24 The frequency of visits to children in short breaks is less than children who are looked after continuously. This recognises the fact that children go home after a short period in placement to their parents who are nearly always best able to see whether the placement is meeting their child's needs or not. The visits by the representative of the placing authority must take place at regular intervals, to be agreed with the child's IRO and the child's parent, and recorded in the child's placement plan before the start of the placement. The first visit must take place within the first 15 days of placement or as soon as reasonably practical thereafter. Subsequent visits should be at intervals of no more than 6 months. The visit is an important opportunity for a representative of the authority to ensure that the placement is meeting the child's needs.

Requirement to review and timing of reviews for short breaks

13.25 The plans for children in short breaks are reviewed less frequently than plans for other children. This recognises that the child is placed for relatively short periods in each episode of short break care. The first review for children in short breaks should take place within 3 months of the start of their placement. Subsequent reviews should be at interval of no less than 6 months. Local authorities may decide to convene earlier reviews in specific circumstances, for example at the request of the child, parent or carer, or in cases where the child is particularly vulnerable or where a child is provided with a high level of short breaks. The responsible authority should not make any significant change to the care plan unless the change has been first considered at a review.

Independent Reviewing Officers

13.26 The role of the IRO for children looked after in a series of short breaks is likely to be more limited than for children looked after longer term. When working with children in short breaks, it is important that IROs are sensitive to the close and active involvement of parents. Given this sensitivity, parents as well as children and young people can highly value their contribution and independent perspective, especially in helping to resolve any difficulties with the placement.

Visits

Visits by the responsible authority's representative

14.1 Section 23ZA of the Children Act (inserted by section 15 of the 2008 Act) sets out the duty of the responsible authority to ensure that all looked after children are visited by their representative, wherever they are living. Regulations 29 to 33 set out the details of this new duty.

Frequency of visits

14.2 Regulation 29 sets out the requirements for the frequency of visits by the responsible authority's representative to a child who is looked after. The regulation applies different visiting requirements depending on the nature of the placement. These visits form part of a broader framework for supervising the child's placement and ensuring that his or her welfare continues to be safeguarded and promoted.

Immediate placements at home with parents or with a temporarily approved connected person

14.3 Where a child is placed at home with parents under regulation 20 or placed with a relative or connected person who is temporarily approved as a foster carer, the child must be visited each week as set out in Regulation 29 paragraph 2(a)(i) and (ii). This frequency reflects the potentially greater vulnerability of a child who has been placed with a carer before the assessment of that person's suitability to care for the child has been completed. These visits will allow the social worker to assess how the relationship between the child and parent or carer is developing and identify at an early stage where there may be concerns about a child's welfare.

Other looked after children

14.4 In any other case where the child is looked after, excluding in a series of short term breaks (see section on short breaks above), regulation 29(2)(b) requires the child to be visited within one week of the start of the child's first placement and within one week of the start of any subsequent placement. Thereafter, the child must be visited at intervals of not more than six weeks for the first year and thereafter at intervals of not more than 3 months.

14.5 These visiting requirements also apply where the child is in care but is living under arrangements made by another person, such as a sentenced child in secure accommodation or a young offender institution (YOI).

14.6 The frequency of visits should be determined by the circumstances of the case and the authority must arrange a visit whenever reasonably requested by a child or foster parent.

Seeing the child

14.7 Regulation 30 requires the representative to see and speak to the child in private. The exceptions to this requirement are in relation to the age and understanding of the child, refusal by the child, if the social worker considers it inappropriate to do so, or the social worker is unable to do so. The care plan and the placement plan for the child should identify where this is a consideration from the outset.

14.8 The need to see the child alone will be decided upon by the responsible authority during the course of the placement.

Where a visit is made to discuss the foster parent's need for support, or is at the foster parent's or residential social worker's request, it may not be appropriate to see the child at that time. Such visits when the child is not seen fall outside the pattern of visits required in regulation 29.

14.9 A very young child or a child who has been abused may be anxious about spending time alone with a person they do not know well. Visiting a child more frequently when they first start to be looked after or when a new social worker is allocated will allow a relationship to develop in which the child will be able to share what is going well and areas of unhappiness in their lives, including any difficulties in the placement. Visits during the first weeks of placement can be especially important to check that arrangements made at the time of placement for schooling and contact are working smoothly, or to give any help needed during the settling-in period. A strong relationship with a social worker is an important protective factor for the child.

The purpose of visits

14.10 The requirements set out are minimum visiting requirements and must be understood in the broader context of the purpose of the visits. The expectation of the Regulations is that the visits will be undertaken by the child's allocated social worker, other than in exceptional circumstances.

14.11 Visiting the child in the foster home has a number of purposes. These include:

- i) a measure of child protection; to talk to the child and to safeguard and reassure a child who may feel isolated and vulnerable and who is away from family and friends. The standard of care should be observed and the child's bedroom sometimes seen. Some visits should be unannounced, in order to provide a balanced perspective of the quality of life in the foster home. A foster parent presenting a "brave-face" would not alert a social worker to their need for help and support in a particularly stressful time in the placement. Visits should regularly take place when all the members of the household are at home.
- ii) an opportunity to evaluate and monitor the achievement of goals, with the child and foster parent, and to contribute to the review of the plan; monitor, with the help of the foster parent, the child's educational, health and other areas of progress; and generally to identify where help is needed;
- iii) to identify any difficulties which the child or carer may be experiencing in the placement, to provide advice where necessary on appropriately responding to the child's behaviour and identify where additional supports and services are needed by the child and/or the carer;
- iv) to monitor the contact arrangements; and identify how the child is responding to contact with family members and other important people in the child's life and to identify any additional supports the foster carers or children's home staff may need to support positive contact arrangements.

14.12 Visits should not be neglected because a placement is going well. Ongoing review of the plan for the child requires that visits take place at least as often as the Regulations require. This helps to ensure the social worker is equipped to identify and help with pending difficulties because care has been taken to establish a relationship with a child and foster parent, and it helps to assess long term situations fully. If, for example, in a long term placement, visits and support seem genuinely superfluous and parents are no longer involved with the child, the case for a residence order application could be considered. There are some circumstances where more frequent visits above the minimum will be necessary. For example, where the role of the child's parents is changing, the child's needs have changed, or perhaps because a lone foster parent has not been allocated a social worker of his "own". There will inevitably be periods in any placement when a foster parent or the placement may be under particular stress.

14.13 The social worker must visit the placement if there is any proposal to remove the child from the placement where there are concerns about welfare.

Reports of the visits

14.14 Regulation 31 sets out requirements to provide a report of each visit and the people to whom a copy of the report should be given. As a minimum, the child's views must be set out alongside the social worker's assessment of whether the child's welfare is being adequately safeguarded in the placement. The report should also set out the main issues which were raised and discussed during the visit, any issues of concern and how these will be addressed and an overall conclusion about the child's welfare.

14.15 The same reporting requirements apply where the child is in care and is being provided with accommodation by another person such as in a secure unit or YOI.

14.16 The report should indicate that the child was seen and if not why not, and if the child was seen alone. It should also comment on the child's welfare and the success of the placement including any comments made by the child or the carer. Any matter for concern or difficulties should be highlighted so that the need for any necessary action can be discussed with the social worker's supervisor.

Copies of the report

14.17 Regulation 31(2) requires copies of the report to be given to:

- the child, unless this would not appropriate given the child's age and understanding;
- any parent or person who has parental responsibility for the child, unless to do so would place the child at risk of suffering significant harm;
- if Regulation 29(2) applies, the appropriate person; or
- if Regulation 29(3) applies, the provider of the accommodation; or

- the person appointed under regulation 15 of the Children (Secure Accommodation) Regulations 1991.

Consequences of the report

14.18 Where the social worker has concerns about whether the placement is adequately promoting the child's welfare, a copy of the report of the visit should be given to the child's IRO.

14.19 Where the social worker concludes that the placement is **not** promoting the child's welfare, the responsible authority must review the child's case in accordance with Part 6 of the Regulations. This will include reviewing the child's care and placement plan, and identifying actions which must be taken to ensure that the placement is able to meet his or her needs appropriately, and if not, to consider alternatives.

Concerns about welfare

14.20 It will be a matter of professional judgement for the social worker, based on his or her knowledge of the child and carer or children's home staff, that the child's welfare is not being adequately safeguarded. Children cannot always describe unhappiness so understanding what the child's daily life in the placement is like – routines, mealtimes, whether people in the household eat together – and whether the child in the foster family is treated in the same way as birth children, is key to understanding what may be having a negative impact on the child. The views of others in the team around the child such as the teacher will also be able to provide information about the way the child presents in school and whether there have been recent changes in their mood or behaviour.

14.21 Joint activities between the child and the social worker outside the home will allow the child to speak more freely. However, where there may be concerns that the child may be suffering significant harm, the child will find it difficult to disclose while still within the environment where abuse is taking place. It is therefore a key responsibility for the social worker to identify other signs that all is not well for the child.

Advice, support and assistance for the child

14.22 Regulation 33 requires the responsible authority to ensure that advice, support and assistance are available to the child in between the visits by their representative, and that so far as practicable, having regard to the child's age and understanding, s/he knows how to seek this.

14.23 Arrangements for this support must be appropriate, having regard to the child's age and understanding, and give consideration to his wishes and feelings, his religious persuasion, racial origin, cultural and linguistic background and any disability he may have.

Supervision of the placement

14.24 Visits provide only one aspect of supervision of the placement, which will also include advice and assistance to the foster carer or children's home staff and reviews of the child's case under Part 6 of these regulations.

Reviews of the child's case

What is a review?

15.1 Regulations 34 to 40 set out the requirements for reviewing children's cases. A review for a looked after child forms part of a continuing planning process for that child and is held in order to ensure that the child's welfare is safeguarded and promoted in the most effective way throughout the period that he/she is looked after.

15.2 A review is a process that will include consultation, the gathering of information, discussion about the information and the making of decisions to consider and amend the plan for a child that has been drawn up in accordance with regulations 4-6.

15.3 Issues to be considered in holding a review include a consideration of:

- progress made in implementing the plan;
- any changes required to the provision of services; and
- a possible reallocation of tasks or a change in the status of the child. This may include the need for care proceedings or discharge of the care order.

15.4 Other types of meetings will also be held about the child as part of the continuous monitoring of the child's case but these will not form part of the review process. A review is not a reconsideration after a complaint, or part of line management supervision of a decision, although either could indicate a need for a review. Multidisciplinary meetings are not part of the review process but again may indicate a need for a review and information gathered at such meetings may be considered at a review.

15.5 Regulation 34 places a specific statutory duty on the responsible authority to review the case of a child who is in the care or accommodation of the responsible authority.

Safeguarding

15.6 Regulation 34(3) makes specific provision for the review undertaken under these Regulations to be carried out at the same time as reviews undertaken under any other provision, such as within the youth justice process or a review of a child protection plan. The timing of a child protection review conference should be the same as the review under these Regulations to ensure that information in relation to the child's safety is considered within the review meeting, and informs the overall care planning process. Consideration must be given to ensuring that the multi agency contribution to the review of the child protection plan is addressed within the review of the

looked after child or young person's plan.

15.7 Regulation 35 sets out the required timing of the reviews and the maximum intervals that may separate them:

- the first review should take place no more than 20 working days after the child started to be looked after by the local authority;
- the second review should take place not more than three months after the first review;
- thereafter, subsequent reviews should take place at intervals of not more than six months after the date of the previous review.

15.8 The frequency of reviews required by the Regulations is the minimum standard and a review should take place as often as the circumstances of the individual case requires. Where there is a need for substantial changes to the care plan, then the date of the review should be brought forward. The Regulations direct that the review be brought forward where:

- a report from the social worker indicates that the placement is not consistent with the child's welfare;
- the child has been remanded into care or remanded into custody and there would not normally be a review before the child is released; or
- there is a proposal by the local authority to cease to provide accommodation for a child and accommodation will not subsequently be provided by the parent.

15.9 In addition, the IRO can direct a review at any time where there is a change of circumstances that might impact in a significant way on the current care plan. This could include:

- a proposed placement out of area;
- a placement that disrupts education, particularly at Key Stage 4;
- the termination of a placement otherwise than in accordance with the care plan;
- a proposal that voluntary accommodation ceases; or
- a proposal that the child returns home.

15.10 This list is by no means exhaustive and there may be many other circumstances in which the IRO may direct that a review be convened. Parents and children and young people should also be consulted about the need for an additional review and any request should be given serious consideration.

A system for reviews

15.11 Regulation 36 requires the responsible authority to have a written policy regarding the manner in which they will conduct reviews of the child's case which must be made available to the people specified in the regulation. Each responsible authority will wish to revise their present arrangements to ensure that they provide a system for review of children's cases which will satisfy the requirements of the Children Act and regulations 34 to 40. In revising existing arrangements or establishing new procedures, responsible

authorities should ensure that their review system provides for:

- the appointment of an independent reviewing officer (IRO);
- the full participation of both children and parents in the decision-making process where possible and appropriate;
- a structured, coordinated approach to the planning of work in individual cases; and
- the full participation of the child's carers subject to the wishes and feelings of the child where age appropriate.

Preparations for a review

15.12 Before the review the social worker responsible for the child's case, in discussion with the line manager, should identify who should be invited. The social worker should also discuss with the IRO:

- proposed invitees to the review meeting;
- the progress of the case since the last review;
- the contents of written reports to be available to the review meeting;
- any other relevant information.

15.13 The review meeting or series of meetings which constitute the review of the child's case, as far as is reasonably practicable, will be chaired by the allocated IRO for the child.

Consultation

15.14 As with planning, it is essential that there is full consultation with all the relevant individuals before the review meeting is held. Appropriate provision should be made for children and parents with communication difficulties or whose first language is not English. Sections 22(4) of the 1989 Act state that before making any decision with respect to a child looked after or accommodated by a responsible authority, the responsible authority should obtain and take account of the wishes and feelings of:

- (a) the child (subject to his age and understanding and so far as this is in his best interests);
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him;
- (d) any other person whom they consider ought to be notified. Any other person may include:
 - (i) his current carer (foster parent or residential social worker);
 - (ii) the independent visitor (if one has been appointed);
 - (iii) the relevant health care professionals;
 - (iv) the child's general medical practitioner (GP);

- (v) the appropriate local authority where it is proposed (or it is the case already) that the child will be looked after in their area;
- (vi) the appropriate local authority officer with responsibility for promoting the educational achievement of looked after children;
- (vii) the most appropriate teacher at the child's current and/or new school which, in the case of a maintained school should be the designated teacher for looked after children;
- (viii) any other person whose views the responsible authority consider should be sought (for example, a representative from a voluntary agency, police child protection liaison officer, housing officer or community leader).

15.15 Where it is considered that written views or reports will be adequate, these should be sought and obtained in time for the review. All relevant written information should be provided to the IRO in advance of the meeting and circulated to others who will be attending the meeting, as appropriate.

15.16 A process should already be in place to ensure the continuous collection of information as part of the planning system rather than as a separate one-off exercise for a review. Consultation about the initial plan for the child, amendments to that plan as time passes and subsequent reviews will inform the planning process and will be relevant material for discussion at all review meetings.

Attendance at the review

15.17 The responsible authority, where they consider it appropriate, should involve the child and his parents in review meetings. The involvement of the child will be subject to his age, understanding and welfare. The possibility of a child being accompanied to a review meeting by an advocate should be considered. Where a child's welfare would be prejudiced by his parent's attendance at the same time as the child, separate attendance may be arranged. The attendance of the child and his or her parents at meetings to review the child's case will be the norm rather than the exception (subject to the reservations already expressed). It is expected that the parents and the child (if s/he is of sufficient age and understanding) will be present at the whole of the review, but this will depend on the circumstances of each individual case. The involvement of the parents and the child in review meetings is in line with the basic philosophy of the Children Act in relation to the participation and wishes and feelings of the child and his parents, and the spirit of partnership between the local authority and parents.

15.18 The flexibility given to responsible authorities regarding the attendance of the child and parents at review meetings recognises the fact that in a few cases their attendance will not be appropriate or practicable. This may be the case if there is a clear conflict of interests which might militate against the attendance of either or both the child and parents. However, the anxieties of professionals should not be the reason for excluding a child or his parent from

a review. Alternative arrangements should be considered. Any decision to exclude the child or the parents from a meeting (or part of a meeting) should be discussed and agreed with the IRO. If a parent or child is excluded from a review, a written explanation should be given with a copy placed on the child's case record on other arrangements made for their involvement in the review.

15.19 In addition to the parent and child, the child's carer should be invited. Other people with a legitimate interest in the child should also be invited if they have a contribution to make which indicates that they should take part in the discussions at the review meeting. The attendance of such people should always be discussed with the child before invitations are made and his/her views on their attendance obtained. It may be appropriate where the contribution from such people is strictly factual for the information to be provided in writing or at a separate meeting. Where a long-term plan has been set in place, a small group (those consistently and constantly involved with the child) should be identified as essential attendees at the next and subsequent review meetings. In the majority of cases, the group will consist of the social worker, the child, parents, the IRO and the carer (if different from the parent). This will vary according to the circumstances of the individual case.

Venue for the Review Meeting

15.20 The child, parents and carers should always be consulted about the timing and venue for the review to ensure maximum participation. Meetings should always be arranged at a place and time which will be most likely to provide a setting and atmosphere conducive to the relaxed participation of all those attending, but most particularly to the needs of the child. Children should not be required to miss school or essential health appointments in order to attend their review. Parents may need financial or other support to enable them to attend.

Matters for consideration at the review

15.21 The primary matter for consideration at the review is the plan for the welfare of the child (under the general duties placed on authorities by sections 22 of the 1989 Act). At the first review this will be done by examining and confirming the plan, with or without amendments. Subsequent reviews will be occasions for monitoring the progress of the plan and making decisions to amend the plan as necessary in the light of changed knowledge and circumstances.

15.22 Schedule 7 to the Regulations provides a checklist of matters for consideration at the review. This is not comprehensive or exclusive but sets the minimum requirements. In addition, the review must consider matters specified in the Act relating to the welfare of the child. Other matters will arise in individual cases which it is not possible to cover in a list of general application. The matters covered by Schedule 7 and the relevant statutory provisions are:

- (a) an examination of the responsible authority's plan for the child in relation to the wishes and feelings of the child and having regard to his

- understanding;
- (b) an examination of the responsible authority's plan for the child in relation to the wishes and feelings of the parents;
 - (c) whether the plan fulfils the responsible authority's duty under section 22(3) of the 1989 Act, to safeguard and promote the child's welfare.

15.23 Paragraph (c) above includes:

- whether decisions taken at the last review have been successfully implemented, and if not the reasons for that;
- the effect of any change in the child's circumstances since the last review;
- whether the placement continues to be appropriate and is meeting the needs of the child;
- whether any change to the placement agreement or any other aspects of the arrangements made to provide the child with accommodation is, or is likely to become necessary or desirable before the child's next review;
- the child's educational needs, including a consideration of the child's most recent assessment of progress and development and whether the arrangements that are in place are meeting the child's educational needs or whether any changes are, or are likely to become, necessary or desirable before the child's next review. Consideration should be given not only to whether the child has a personal education plan (PEP) but also whether its content provides a clear framework for promoting the child's educational achievement;
- the child's leisure interests and activities and whether the current arrangements are meeting the child's needs;
- whether the child would benefit from the appointment of an independent visitor;
- the child's health, including a consideration of the child's most recent health assessment and whether the arrangements that are in place are meeting the child's health needs or whether any changes are, or are likely to become, necessary or desirable before the child's next review. Consideration of the child's health needs to include physical and emotional health and whether the content of the health plan provides a clear framework for promoting the child's health;
- whether the identity needs of the child are being met and whether any changes are needed, having regard to the child's religious persuasion, racial origin and cultural background;
- whether there is a plan for permanence for the child;
- whether the current legal status of the child is meeting the child's needs or whether there should be any change to it, for example an application to discharge the current order or for a new order by the responsible authority or the application by a carer for a Residence

Order or Special Guardianship Order;

- the current arrangements for contact and whether there is a need for changes to the arrangements in order to promote contact between the child and his family or other relevant people;
- whether the young person understands any arrangements made under regulation 33 to provide advice, support and assistance to them and whether these arrangements continue to meet their needs;
- whether the responsible authority needs to be making any arrangements for when the child ceases to be looked after;
- the child's wishes and feelings about any aspect of the case and the care plan;
- the views of the child's IRO about any aspect of the case and the care plan.

Duties of the IRO in relation to the review process

15.24 Under regulation 38, as chair of the review process, the IRO must speak to the child in private in advance of the meeting about the matters to be considered at the review, unless the child refuses to do so or the IRO considers it inappropriate, having taken in account the child's understanding.

15.25 At the meeting(s) the IRO must ensure that a named person is identified as having responsibility for the implementation of each decision made at the review, within an agreed timescale. The decisions should be framed in such a way that the identified needs and outcomes are clear. The person responsible for implementing the decision and the timescale for implementation must be recorded.

15.26 Following the review, the IRO must advise staff at an appropriate level of seniority of any failure to review the case in accordance with the Regulations or of a failure to implement any decisions.

Adjournments

15.27 The Regulations give the IRO a new power to adjourn reviews. However, careful consideration should be given to taking such action and the views of the child should be sought before any decision is made. The IRO will want to think of the effects on the child of delaying a meeting for which they have been prepared and will need to weigh up the benefits between proceeding with the meeting on limited information and the delay in decision making as a result of adjournment. However, responsibility for deciding whether or not a review should be adjourned rests solely with the nominated IRO for the child concerned. In such circumstances the review may be adjourned once but should be completed within 20 working days. Examples where the IRO might wish to consider an adjournment include:

- circumstances where the IRO is not satisfied that the local authority

- has complied adequately with all the requirements relating to reviews e.g. the duty to consult the child, the child's parents and others before taking decisions with respect to the child, or appropriate planning and paperwork being available and that such omissions will adversely effect the review; or
- the IRO is not satisfied that the child has been properly prepared for the meeting.

Arrangements for implementing decisions

15.28 Regulation 39 requires the responsible authority to have arrangements in place for implementing decisions made in the course of or as a result of the review. These arrangements must include a process for informing the IRO of any failure to implement the decisions within the agreed timescale. Health Authorities, local education authorities, local housing authorities and other social services departments have a duty under section 27 of the Children Act to comply with a request from a social services department for help in the exercise of their functions. Section 39(b) of the 1989 Act requires the responsible authority to inform the IRO if they fail to implement decisions made in the course of the review.

Record of Review

15.29 Regulation 40 requires that a written record of each review is completed and placed on the child's file. The record should contain a list of those who attended. In circumstances where the child or parents do not attend, the reasons for this should be noted. It should contain an accurate and comprehensive record of the meeting, or meetings, which constituted the review, and of the views of all those who attended or were consulted as part of the review process. It should address in detail all the elements of the care plan.

15.30 The IRO is responsible for completing this record, which should include:

- an assessment of the extent to which the care plan is meeting the needs of the child;
- the identification of any changes that are necessary in the light of information presented at the review;
- a list of the decisions made;
- the name of the person responsible for implementing each decision; and
- the relevant timescales.

15.31 High quality recording of information obtained in the course of the review and of the decisions arising from the review is essential to the task of ensuring that practitioners involved with the child's case continue to meet the needs of the child so that outcomes for them improve.

Under regulation 6(3) the responsible authority must give a copy of the revised care plan to the child, parent and the IRO.

Disagreements

15.32 Where disagreements arise in the course of the review process between the child and parents, the child and the responsible authority, the parents and the responsible authority, or the IRO and the responsible authority, every effort should be made to resolve the matter on an informal basis. Where agreement cannot be reached, the responsible authority should ensure that the child, parents, carers and others involved with the child are aware of the representations procedure required by section 26(3) of the Children Act 1989. Regulation 47 places a duty on the IRO to advise the child of his/her right to make a complaint and of the availability of an advocate to assist the child in making a complaint.

15.33 Where the IRO is of the view that the responsible authority:

- has failed to meet the needs of the child;
- has failed to review the case in accordance with the regulations;
- has failed to implement effectively any decision made at a review; or
- is otherwise in breach of its duties to the child in any significant way,

the IRO must advise staff at an appropriate level of seniority of this failure. It will be important that senior managers then work to resolve the failure within a timescale that meets the needs of the individual child.

Referral to Cafcass

15.34 The IRO has the authority to refer a case to Cafcass (or a Welsh family proceedings officer) if the IRO considers it appropriate to do so. The IRO will encounter a wide range of situations in which there are concerns about the plan for the child or the service that is being provided. In most cases it will be possible to address these through:

- dialogue with the local authority, including access to the dispute resolution procedure;
- use of the complaints procedure, either by the child directly or by an adult who is authorised to act on the child's behalf;
- application to the court for an order under the Children Act, either by the child or by an appropriate adult who is able and willing to act.

15.35 When considering whether to make a referral to Cafcass, the IRO should consider the impact that a referral would have for the child. In some cases, there will be time available first to pursue the full dispute resolution procedure within the local authority. In other situations, the matter will be of sufficient urgency that the dispute resolution process needs to be curtailed. It is the responsibility of the IRO to make the decision about whether and when a referral is necessary, based on the timetable for the child.

Independent Reviewing Officers

15.36 The Children and Young Persons Act 2008 strengthens the functions of Independent Reviewing Officers (IROs) to improve care planning and secure better outcomes for children in care.

15.37 Section 10 of the 2008 Act inserts sections 25A-25C into the 1989 Act, which extends 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**.

15.38 The intention is that the changes to the statutory framework will enable the IRO to have a more effective and independent oversight of the child's case so that the care plan represents an effective response to the assessed needs of the child, respects the individual integrity and dignity of each child and has regard to their human rights.

15.39 The 1989 Act and Regulations specify the duties of the local authority to appoint an IRO and the circumstances in which the local authority must consult with the IRO. They specify 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 local authority 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.

15.40 A named IRO now has a statutory duty in relation to each looked after child, from shortly after the child first becomes looked after, for the duration of the child's stay within the care system. The new strengthened function includes responsibility for consulting with the child about their care plan at each review and at any time that there is a significant change. Care plans can only be changed at reviews and the IRO has the authority to determine when a review should be convened in the light of a change of circumstances.

15.41 The review of the care plan is one of the key components within the core processes of working with children and families of: assessment, planning, intervention and reviewing. The purpose of the review is to consider the quality of the child's care plan, to monitor the progress of the plan and to make decisions to amend the plan as necessary in light of changed knowledge and circumstances. This must include setting clear timescales and allocating responsibilities for achieving the plan's objectives and taking into account the current views, wishes and concerns of the child.

15.42 IROs then are well placed to assess the quality and effectiveness of local authority planning and support for children. The IRO has a crucial role to play in ensuring that the local authority fulfils its responsibilities as a "corporate parent" for all the children that it looks after. The IRO must ensure that the voice of the child is heard and that the child is offered stable care that is sensitive and appropriate to his/her personal needs, so that the child is able to flourish and achieve.

15.43 The responsibilities of IROs include:

- ensuring that plans for looked after children are based on a detailed and informed assessment, are up to date, effective and provide a real and genuine response to each child's needs;
- identifying any gaps in the assessment process or provision of service;
- offering a safeguard to prevent any 'drift' in care planning for looked after children and the delivery of services to them;
- monitoring the activity of the local authority as a corporate parent in ensuring that care plans have given proper consideration and weight to children's wishes and feelings and that the child fully understands the implications of any changes to their care plan.

15.44 The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's need and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. As corporate parents, each local authority must act for the children they look after as a responsible and conscientious parent would act.

15.45 There are now two clear and separate aspects to the function of the IRO:

- chairing the child's review;
- monitoring the child's case on an ongoing basis.

15.46 In exercising both parts of this role the IRO must ensure that the child's current views, wishes and concerns have been established and taken in account, where appropriate.

15.47 As part of the monitoring function, the IRO also has a duty to monitor the performance of the local authority's function as a corporate parent and to identify any areas of poor practice. This should include identifying patterns of concerns emerging not just around individual children but also more generally in the collective experience of its looked after children. Where these more general concerns around service delivery are identified, the IRO should immediately alert senior managers to these concerns.

15.48 The Regulations place a duty on the IRO to ensure that the child has been informed of their right to apply, with leave, for a section 8 order, and where the child is in care, for the discharge of the care order and their right to make a complaint and to an advocate. If the child wishes to take legal proceedings under the 1989 Act, the IRO must establish whether there is an appropriate adult able and willing to assist the child to obtain legal advice or bring proceedings on the child's behalf or, if there is no such person, assist the child to obtain such advice.

15.49 Taking into account the understanding of the child, the IRO will need to consider carefully how best to explain to each child their right to:

- apply for an order or seek discharge of an order;

- an advocate, including the role of the advocate; and
- their right to make a complaint and how to do this.

15.50 These are all complex issues to explain to a child and the IRO will need to be able to satisfy themselves and their managers that the young person is aware and understands their rights.

15.51 Regulation 48 specifies the qualifications and experience necessary for IROs to fulfil their statutory functions.

15.52 The IRO must be registered as a social worker by the General Social Care Council under section 56 of the Care Standards Act 2000 or in a corresponding register maintained under the law of Scotland or Northern Ireland and should have at least 3 years post qualifying experience. The IRO should be able to provide evidence for appointment that they have sufficient relevant social work experience in children's social care to undertake their functions. They should have the ability to communicate with children and young people, the confidence and ability to challenge senior managers and a thorough understanding of the legal framework relating to looked after children and care leavers, including knowledge of National Minimum Standards. They should have a thorough working understanding of the legal process and the issues involved when a local authority makes application for a care order. They should have experience of providing social work supervision and support and knowledge of the evidence about what makes for good quality practice in working with children and families.

15.53 Regulation 48 also sets out categories of persons that the local authority can not appoint to carry out the IRO function.

15.54 The IRO cannot be:

- a person involved in preparing the child's care plan or the management of the child's case;
- the child's social worker or personal adviser;
- a person with management responsibilities for any of the above;
- a person with control over the resources allocated to the case.

Please see section on 'Independence' in the IRO Handbook for further information.

Arrangements for ceasing to look after an accommodated child

16.1 Children who are accommodated under section 20 of the Act may be particularly vulnerable. They may be removed from accommodation by parents at relatively short notice, they may be returned to parents because of a placement breakdown and some will return to accommodation within a relatively short time. Unlike the return to birth parents for a child on a care order, the child loses looked after status and its accompanying supports and

services upon leaving the accommodation provided by the local authority.

16.2 Regulation 41 requires a care plan to be drawn up when the return home is planned or likely to happen, in order to identify the supports and services which will be needed by the child and family to ensure that return home is successful. The child's needs and parenting capacity of those with parental responsibility for him/her, within the context of wider family and environmental factors, that are set out within the current care plan will need to be identified and revised, to reflect the child's changed status.

Eligible children – Transition to Adulthood

16.3 Plans for transition to adulthood must be in place for all looked children aged 16 and over who have been looked after for at least 13 weeks after they reached the age of 14. Those 13 weeks can be continuous or made up of separate episodes of care, excluding short-term placements made by way of respite care, but must include a period of time after reaching the age of 16. The responsibilities of local authorities to prepare pathway plans and prepare looked after children to make the transition to adulthood apply irrespective of any other services being provided for them, for example, they are disabled, or in custody, or they are being looked after as a result of entering the country as an unaccompanied asylum seeker (UASC).

16.4 Regulation 48 requires that for every eligible child, the authority must make an assessment of needs to inform their pathway plan, which will become an integral part of their care plan and will be maintained as part of the overall care plan for as long as the child continues to be looked after.

16.5 The local authority may be able to fulfil its duty to assess under this regulation by making sure that the assessment underpinning the child's current care plan is completely up to date. Information about the content of care plans has been provided earlier in this guidance.

16.6 The pathway plan must be completed using the information gathered as part of the assessment. The statutory framework requires that, no later than the age of 16, the local authority must take steps to make sure that the child acquires the skills and has the support necessary to make a positive transition to adulthood.

16.7 The pathway plan must address:

- the child's health and development;
- education, training and employment. Where the child is no longer of statutory school age the pathway plan may need to incorporate the goals and actions that had previously been set out in their Personal Education Plan. Pathway plans must have an explicit focus on career planning, taking into account the young person's aspirations, skills, and educational potential;
- contact with the child's parents, wider family and friends and the capacity of this network to encourage the child and enable them to

make a positive transition to adulthood;

- the child's financial capabilities and money management capacity, along with strategies to develop the child's skills in this area.

16.8 Generally the assessment and pathway planning process for an eligible child must involve a measured evidence based analysis of the child's continuing need for care and accommodation and the support necessary, so that they are properly prepared and ready for the time when they will no longer be looked after or when they will no longer be supported in a regulated setting, whichever is the sooner.

16.9 The voice of the child is at the centre of the pathway planning process. The weight given to their views will depend on the assessment of their welfare by those professionals who are responsible for providing the child with care and support. By themselves, these views will never be determinative. Where there are circumstances where the child's wishes demand a level of independence, which the assessment suggests that they could not possibly manage, it will always be important that the child's views are tempered by a professional assessment of their welfare and what measures are in their best interest.

16.10 In drawing up the pathway plan, other than the child, the following people must be consulted.

- any parent of the child and any person who is not the child's parent but who has parental responsibility for them;
- their designated teacher, college staff or other education professional;
- their personal independent reviewing officer;
- any person or educational institution that provides the child with education or training, and if the child has a statement of special educational needs, the responsible authority that maintains the statement;
- their personal adviser (where this function is not being carried out by their allocated social worker).

16.11 Section 8 of the Children and Young Persons Act 2008 inserts a new section 22D into the Children Act. This is to ensure that any looked after child should not move from accommodation that is regulated under the Care Standards Act 2000 to other arrangements without a statutory review of the child care plan, chaired by their Independent Reviewing Officer (IRO). A move to other arrangements would include moving to accommodation, which is often referred to as semi-independent accommodation, which would not be inspected by Ofsted.

16.12 No child should be made to feel that they should "leave care" before they are ready. The role of the child's personal IRO will be crucial in making sure that the plan considers the child's views. Before any move can take place, the child's statutory review meeting, chaired by their IRO, will evaluate

the quality of the assessment of the child's readiness and preparation for any move. The child and the professionals responsible for contributing to the plan and the review, must concur that the child has developed the skills necessary to manage any transition to more "independent living" where, as a result, less support will be provided.

16.13 Further details about the pathway planning process for eligible children, and the support that they must be provided with so that they are properly prepared to make their transition to adulthood can be found in the revised guidance *Children (Leaving Care) (Amendment) Regulations - Planning Transition to Adulthood for Looked After Children*.

Case Records

16.14 Good case recording is an important part of the accountability to those who use the services, of staff working in children's services for looked after children. It helps to focus the work of staff and it supports effective partnerships with service users and carers. It ensures there is a documented account of the responsible authority's involvement with individual service users, families and carers and assists with continuity when workers are unavailable or change.

Establishing the child's record

16.15 Regulation 51 sets out the requirements on the responsible authority for creating and maintaining the child's written case record - this means an individual case record for each child looked after by them. Records are the basis for a clear and common understanding of the plan for the child, the arrangements made, agreements which have been reached and decisions which have been made and the reasons for them. Careful recording of agreements and decisions relating to the plan for the child, the aim of the placement and of the child's progress in the placement enables the implementation of planning decisions to be monitored effectively and kept under review.

- 16.16 Regulation 51(2) sets out what the record must contain including:
- the first care plan and any changes made to that plan and any subsequent plans;
 - health plans;
 - records of visits;
 - documents created as part of the assessment process;
 - any court order relating to the child such as the care order;
 - details of any arrangements for the responsible authority's functions to be discharged by an independent fostering provider (IFP) or provider of social work services.

16.17 These should be regarded as the minimum requirements for the case

record. For some children and particularly those who are placed permanently away from their family it provides an important narrative of their childhood.

16.18 Records should also include:

- details of arrangements for contact and contact orders and any other court orders relating to the child;
- copies of reports provided during court proceedings such as Guardian's reports, specialist assessments;
- Personal Education Plans (PEPs) and other information about educational progress;
- copies of all the documents used to seek information, provide information or record views given to the authority in the course of planning and reviewing the child's case and review reports.

16.19 It is also recommended that any contribution the child may wish to make such as written material, photographs, school certificates and similar items should also be included. However, care must be taken to ensure that the child retains either originals or copies of information which will form part of their own progress file to keep with them.

16.20 The responsible authority's records are an important source of information for the child who is looked after away from their birth family. They provide information about the sequence of events and the reasons why important decisions in the child's life were made. For some children they will provide a means to trace relatives with whom they may have lost contact, such as brothers and sisters.

16.21 The record should be maintained in such a way that it is easy to trace the process of decision-making and in particular so that the views of the child and his parents can be easily found and related to the sequence of decisions taken and arrangements made. In addition, any papers temporarily placed in the record which are the property of the child should be identified as such and marked for return at the appropriate time.

16.22 The child's record should be separate from other records, such as those relating to a foster parent or the registered children's home which are not solely concerned with the individual child. Where some information on one of these other records is relevant to the child a duplicate entry should appear in the child's record. Records should not be amalgamated even in the case of siblings, although a degree of cross-reference and duplicate entry will be necessary.

Retention and Confidentiality of records

16.23 Regulation 52 sets out the requirements for the retention and safekeeping of records and the issues of confidentiality and access to records.

Retention of Records

16.24 Regulation 52(1)(a) specifies the length of time for which records are to be kept. The child's case record must be kept until the seventy-fifth anniversary of their date of birth or fifteen years from the date of death in the case of a child who dies before reaching the age of eighteen.

Safekeeping of records

16.25 Regulation 52(2) requires that responsible authorities should take steps to ensure the safekeeping of records. This requires not only arrangements for the physical security of the records but effective procedures to restrict access to records to those who are properly authorised and need access because of their duties in relation to a case.

Access to Records

16.26 The 1989 Act requires authorities to give access to records to persons duly authorised by the Secretary of State and to Guardians appointed by the court.

16.27 Access by the Local Commissioner is provided for in the Local Government Act 1974. Other legislation affecting social work records is the Data Protection Act 1998 which gives individuals rights of access to certain information about themselves. The Data Protection Act applies to all records. The Act provides for certain information to be exempted in prescribed circumstances from the right of access such as adoption records and third party information.

Electronic Records

16.28 The Data Protection Act makes no distinction between paper/manual records and records held electronically. Responsible authorities should therefore ensure that their electronic recording systems comply with all the requirements of the legislation. It is also important, however, that electronic recording systems comply with the requirements for children, young people and their families to easily find their story in a logical narrative.

16.29 Responsible authorities should act in accordance with the above guidance and with their own legal advice in matters relating to the disclosure of information held in the records. It is good practice that information held about an individual should be shared with him or her unless there are special reasons for withholding it, covered by the legislation and guidance mentioned.

Application of the Care Planning, Placement and Case Review Regulations to looked after children in contact with Youth Justice Services

17.1 Care planning, placement and case review responsibilities apply to all looked after children, including those involved with youth justice services.

Carrying out these responsibilities may, however, be a more complex task and specific guidance is therefore provided to provide clarity about the interaction between care and the youth justice system.

17.2 Whilst local authorities have primary responsibility for looked after children, they are entitled to expect the support of partner agencies, including youth justice services. The Children Act 2004 places a duty on Youth Offending Teams (YOTs) and custodial establishments to make arrangements to safeguard and promote the welfare of children (section 11) and to cooperate with other agencies (section 10), and they should have processes in place to fulfil these duties.

17.3 A judicial review has also ruled that children and young people in Young Offender Institutions (YOIs) are subject to the Children Act 1989, subject to the requirements of imprisonment². The local authority continues to have responsibilities towards them in the same way as they would to other children in need. Local authorities and YOTs should have agreed protocols setting out how they will work together to safeguard and promote the welfare of looked after children within the youth justice system.

Response to offending behaviour

17.4 Local authorities and YOTs should have well understood arrangements in place to support each other's involvement with individual children, including those looked after outside their home authority. This will require information-sharing protocols, effective IT systems, up-to-date contact information and staff training.

17.5 If a looked after child is arrested, the local authority should ensure that the child has the support of an appropriate adult or solicitor with the necessary knowledge and skills whilst at the police station. The child's social worker and the YOT should also communicate with each other and share relevant information about the child's circumstances and needs. This will include the social worker passing on key information from the child's care plan or pathway plan and the YOT worker disclosing details of the child's offending. The Crown Prosecution Service have produced guidance to inform decisions about the prosecution of looked after children in recognition of the fact that it may not always be in the public interest to bring charges even where an offence has been committed.

17.6 Whether the child is prosecuted or not, consideration should be given to reviewing the child's care plan in conjunction with the YOT to ensure that measures are in place to address the causes of the child's offending.

Children charged with an offence

17.7 When a looked after child is charged with an offence it is important that looked after children are not disadvantaged by a refusal of bail because of

² R v Secretary of State (2002) EWHC 2497.

their status. The court needs to have confidence that the child will be supported to adhere to any conditions of bail and is living in a suitable placement. Local authorities, in conjunction with the YOT, should work together to develop suitable bail support programmes and specialist placements, such as remand foster care schemes, to ensure that there are viable alternatives to the child being remanded to secure accommodation.

17.8 The local authority must ensure that the child is legally represented by a lawyer with expertise in youth justice, who is provided with relevant information about the child's circumstances, needs and care plan.

17.9 A child who is not currently looked after may become so once they are involved with the youth justice system. The first instance of this is when the police request a transfer of detention to the local authority pending a court hearing under the Police and Criminal Evidence Act 1984 (PACE), in which case the child becomes looked after under section 21 of the Children Act 1989 until the hearing.

Remanded children

17.10 There are a number of options open to the court if the case cannot be dealt with immediately. They may grant the child bail, with or without conditions such as curfew. Alternatively, they can decide to remand the child, which again may have implications for their **looked after** status. The types of remand are as follows.

- a) A criminal court can remand children aged 10-16 to the care of the local authority under section 23[1] of the Children and Young Person's Act 1969. In the case of children who were not previously looked after, this will give them the status of a looked after child under section 21 of the Children Act 1989 for the duration of the remand. The court can attach conditions, including a requirement that the child be placed in secure accommodation (section 23(4)) if aged 12-16. This is known as a Court Ordered Secure Remand (COSR). For children aged 10-11, the court cannot make a COSR but the local authority can apply to place the child in a secure children's home under section 25.
- b) Children aged 10-16 who are already looked after under a care order or voluntary agreement can also be remanded under section 23. In practice, there would be little point in remanding them to the care of the local authority unless the court wishes to impose a COSR or a condition prohibiting their placement with named persons.

17.11 It is the responsibility of the local authority to identify a suitable placement for all children transferred to their care under PACE or remanded to their care under the Children and Young Person's Act 1969. These children are entitled to the same care planning and review processes as other looked after children.

17.12 In the case of a COSR there is an agreement in place that the Youth

Justice Board (YJB) will identify a placement in a secure children's home (SCH) or secure training centre (STC); but the local authority retains responsibility for assessing the child's needs, building on any previous assessment completed by the YOT, and for planning their care in conjunction with the responsible YOT.

17.13 It will be best practice that wherever possible and appropriate, the responsible local authority should work actively towards securing bail for the child, or the removal of the secure requirement, in partnership with the child's legal representative and the responsible YOT.

Sentencing

17.14 If a looked after child is convicted of an offence, the local authority social worker should provide information to the YOT worker responsible for completing Asset, the YJB assessment of risk factors for offending. They should also provide relevant information for the pre-sentence report (PSR) which will be used by the court to determine the appropriate disposal. The YOT worker should consult the child's social worker over the content and recommendations of the PSR, ensuring that mitigating factors arising from the child's life experiences are included and that welfare considerations are reflected in the proposed disposal.

17.15 Explicit consideration should be given to factors that will make the child particularly vulnerable if sentenced to custody and should be included in the report. The responsible authority should also provide information on the interventions and support that would be made available if the child were to receive a community disposal. Copies of the Asset, PSR and other reports completed by the YOT must be sent to the child's social worker.

17.16 If a custodial sentence is likely, the YOT worker and social worker should work together to prepare the child and their family by explaining what will happen and how the child will be supported during and after their time in custody.

17.17 It is good practice for the allocated social worker to attend court with the child, particularly on the day of sentence. This is in order to support the child, but also to ensure that the child's best interests are represented, for example by discussing the possibility of an appeal with the child's legal representative. In any event, prior agreement should be reached with the YOT about how the decision of the court will be notified to the responsible authority, including details of the child's placement if they are sentenced to custody. This notification should take place on the same day as sentencing, and be followed up in writing.

Following sentence

17.18 If the child receives a community sentence, the local authority social worker and supervising YOT officer should continue to work closely together, sharing information and clarifying their roles and responsibilities in relation to

the child. The child will remain a looked after child.

17.19 If the child receives a custodial sentence, the responsibility of the local authority will depend on the child's legal status:

- if the child is subject to a care order under section 31 of the Children Act 1989, there is no change to their legal status and the local authority continues to be responsible for planning and reviewing their care;
- if a child was accommodated under section 20, he or she will lose their looked after status while serving the custodial sentence because they are not being accommodated in a placement provided by the local authority. They may however, be entitled to consideration as a child ceasing to be looked after³. The new duty set out in section 23ZA also imposes a duty on local authorities to visit such children in custody and will be the subject of separate guidance.

17.20 If a child was remanded to the care of the local authority under section 23 of the Children and Young Person's Act 1969, they cease to be looked after on being sentenced to custody.

17.21 If the child is a relevant care leaver, this status remains unchanged whilst in custody and the local authority that looked after the child retains responsibility for providing support during their time in custody and on release. Some children will acquire this status whilst they are in custody on attaining the age of 16: that is, those who have spent 13 weeks looked after since the age of 14 and were subject to a care order or in section 20 care or remanded to local authority accommodation immediately prior to entering custody⁴. These issues will be addressed in the revised guidance on children leaving care.

Placements in custody

17.22 Where the child is remanded or serving a short sentence, and was making good progress in their placement before entering custody, consideration should be given to retaining that placement so that they can return there on release. If this is not appropriate, in the light of the offence, or practicable in terms of the length of the sentence and therefore cost, an alternative placement should be sought as soon as is practicable during their time in custody.

17.23 A custodial placement does not have the same status as a placement made by the responsible authority under section 22C of the Children Act 1989 and the sections of the Care Planning, Placement and Case Review (England) Regulations [2010] regarding placements (paras 12-37), do not therefore apply. However, the responsible authority does continue to have other responsibilities.

³ Care Planning, Placement and Case Review (England) Regulations [2010] Regulation Regulations 46(3)(e) and 53(2).

⁴ Children (Leaving Care) Regulations 2001. Regulation 4

17.24 The YJB is responsible for identifying a placement for all children entering custody. The YOT are invited to recommend the establishment that they consider to be most suitable and the local authority should ensure that they contribute their opinion. The final decision rests with the YJB. The responsible local authority should be informed of a looked after child's placement in custody by the YOT on the day the placement takes place. The social worker can then arrange to visit their child and their IRO must also be informed.

Responsibilities of the local authority to looked after children in custody

17.25 This section concerns children who are in care under section 31 or subject to a COSR, to a SCH, or STC and therefore are looked after children in custody.

17.26 The secure establishment will have the same need for information about the child as any other residential setting. Within five working days of the child's remand or sentence to custody, the social worker should contact the establishment's caseworker (sometimes known as resettlement or through care worker) and/or the social worker based in the YOI to inform them of:

- the child's care status, including their entitlement to support as a care-leaver;
- persons with parental responsibility for the child;
- name and contact details of the allocated social worker, their team manager and IRO;
- any immediate information necessary to ensure the child's safety;
- relevant information about the child's family/carers and contact arrangements;
- relevant information about the child's needs that will enhance the establishment's ability to care for the child;
- the date when the social worker or local authority representative will be visiting the child;
- the date of any forthcoming review of the child's case.

17.27 This should be followed up in writing to the establishment.

17.28 It will be good practice for the child's social worker or representative of the responsible authority to visit the child within one week of their being placed. This representative should be the child's allocated social worker or personal advisor, unless there are particular reasons why this is inappropriate, and should in any event be a qualified social worker or a practitioner working under the supervision of a qualified social worker employed by the authority. **The role must not be fulfilled by a YOT worker.** Subsequent visits must take place at intervals of not more than six weeks for the first year and not more than 3 months after that. Additional visits should also take place if

reasonably requested by the child, the establishment, or the YOT, or if there are particular circumstances that require a visit.

17.29 For example, it is good practice for the social worker to attend the child's remand or sentence planning meetings. Where the child is placed in an SCH or STC, a visit should also take place if there has been a notification under the Care Standards Act 2000 or, where the child is placed in a YOI, concerns about the welfare or safety of children are raised by Her Majesty's Inspectorate of Prisons.

17.30 The purpose of the visits is to keep in touch with the child and maintain an up to date care plan. The establishment should facilitate the visits and allow the child to be seen in privacy, unless the child refuses. Social workers should be afforded the same status as legal visitors (to be agreed with NOMS) rather than the more limited access to the child that applies to family visits. The social worker should consider whether the child is being adequately safeguarded and their welfare promoted. Children in custody remain entitled to advice, assistance and support in between visits from the local authority. Specific factors to take into consideration are as follows:

- a) Is the child safe?
- b) Is there a risk of self harm?
- c) Does the child need money, clothes, books or other practical support?
- d) Are education staff aware of and able to meet the child's educational needs, including any special needs or abilities?
- e) Are the health unit and wing staff aware of, and able to meet, the child's health needs?
- f) Are staff aware of, and able to meet, the child's religious and cultural needs?
- g) Is the child worried about anything? If so, what?
- h) What impact has the sentence had on family relationships? Does there need to be help with contact arrangements?
- i) What action is needed to provide for the child's placement on release?
- j) Are changes needed to the child's care plan/pathway plan?

17.31 This assessment should be informed by the views of the YOT worker, staff in the custodial establishment, including pastoral care, education and health staff and the child's family.

17.32 This assessment will form the basis for an interim plan as to how the child's needs will be met in custody and who is responsible for each aspect of the plan.

Action to be taken if there are concerns about the child's safety or welfare

17.33 The local authority does not have the power to terminate the placement of a child who has been remanded or sentenced to custody in the way that it can terminate placements made under section 22C. However, where there are concerns that the child is not being safeguarded or their welfare promoted, there are a number of avenues for the local authority to pursue. In the first instance, the authority may be able to resolve the concerns by agreement with the establishment itself. All YOIs are required to have a Safeguards Manager and there are a number of children and families' social workers based within YOIs who may be able to address the problem, as may the managers of SCHs and STCs. For example, the child could be moved to another unit within the establishment or provided with additional support or services.

17.34 Where issues cannot be resolved at establishment level, the responsible authority may need to involve external agencies. All custodial placements are commissioned by the YJB and they are ultimately responsible for ensuring that they provide appropriate care. The YJB employs monitors to have oversight of standards and performance. Local Safeguarding Children's Boards also have responsibility for the secure establishments in their area. If the responsible authority is of the view that the child needs to be moved to another establishment, the YJB has a transfer protocol. Transfer requests can be formally initiated by the:

- YOT;
- establishment; or
- placement team at the YJB.

17.35 The local authority should contact one of these agencies to express their concerns and ask that they complete a Transfer Request Form, indicating the degree of urgency. Concerns should also be submitted in writing to the YJB placement team and, if they relate to the standard of care being provided by the establishment rather than the specific needs of an individual child, the LSCB and YJB monitor for the establishment should be notified.

17.36 Where the need for a transfer is agreed, the child may be moved to another YOI, STC or SCH. There is, however, a power⁵ which allows children serving a Detention and Training Order to be placed other than in the secure estate.

Planning and review process

17.37 For children who remain looked after whilst in custody, the care planning and review process continues, including advance consultation with the child and other key participants.

17.38 A review should be held early in the child's sentence even if it means bringing forward a review, as going into custody is a significant change in

⁵ Under Part 3, Section 34 of the Offender Management Act 2007

circumstances and so requires changes to the care plan. The usual minimum statutory timescales for review apply thereafter. Depending on the length of the child's stay in custody, consideration should be given to undertaking a review within the last month before release.

17.39 A person within the custodial establishment should be nominated to act as the link with the care planning process. With YOIs, it is suggested that this link person be the YOI social worker but it is good practice to give the child an element of choice wherever possible. For example, a child may have a particularly trusting relationship with their personal officer. This link person will be informed of the key elements of the child's plan and, in turn, keep the child's social worker informed of the child's progress and events within the establishment.

17.40 The child's supervising YOT officer should also be kept informed of changes to the child's care plan and other relevant information. Subject to the child's agreement, the supervising YOT officer and the nominated link person within the establishment should be invited to attend review meetings.

Sentence Planning

17.41 Remand and sentence planning serves a different purpose from care or pathway planning. The process is designed to plan the activities the child will engage in during their time in custody and, for sentenced children, in the community. It is aimed primarily at reducing the risk of offending. Meetings are chaired by a YOT worker or a staff member from the establishment.

17.42 The social worker will always be invited to remand or sentence planning meetings and their input will be integral to effective resettlement planning. It is good practice for them to attend all planning and review meetings. However, as a minimum they should attend the initial planning meeting and the release preparation meeting. For a short sentence it might be good practice that the local authority attends the first meeting and the release preparation meeting where the release plan is discussed. For longer sentences or where there are particular difficulties, it will be appropriate to attend more often.

17.43 If the social worker is not able to attend, they must provide relevant information about the child's care or pathway plan into the meeting to the supervising YOT officer prior to the meeting. The supervising YOT officer is responsible for making the links between the respective plans and feeding information back.

Planning for release

17.44 The local authority must be involved in the plans for release. In many cases, they will be responsible for the provision of a placement and financial support in the community. Wherever possible, arrangements should be made for children to visit prospective placements and employment or educational facilities and to meet relevant practitioners before their release. There are

facilities for a child to be granted Release on Temporary Licence (ROTL) or Mobility to allow outside visits to take place.

17.45 As soon as possible, and at least one week before release, the child must know:

- who is collecting them;
- where they will be living;
- the reporting arrangements;
- sources of support – including out of hours;
- the arrangements for education or employment;
- arrangements for meeting continuing health needs;
- how and when they will receive financial support;
- when they will be seeing their social worker;
- the roles and responsibilities of the respective practitioners.

17.46 It is essential that there is clarity about who is responsible for each element of the child's plan and the arrangements for communication and enforcement. The local authority should record this plan and make copies available to the child, the supervising YOT officer, IRO, other agencies that will be involved with supporting the child after release, and the child's family, if appropriate.

Support in the community

17.47 Sentenced looked after children returning to the community will continue to be supervised by the YOT. For those on a Detention and Training Order (DTO), the most common custodial sentence, the second half of the term is served in the community but the child can be recalled if they do not comply with the conditions within their Notice of Supervision. For children who have served other types of sentence, they are released on Licence and can again be recalled.

17.48 The local authority **must** remain a presence in the child's life during the period of supervision by the YOT. Their role is different and more extensive than that of the supervising YOT officer, whose involvement will be determined by the length of any order and the child's offending behaviour.

17.49 Children are vulnerable in the early days after release and need considerable help, both emotionally and practically, to:

- readjust to living in open conditions;
- meet the requirements for reporting and surveillance;
- sort out finances;
- settle into accommodation;
- negotiate work or college;

- re-establish relationships with family and friends;
- avoid situations where offending may occur.

17.50 The social worker and supervising YOT officer should keep each other informed of significant events, including any changes in service delivery or plans. It is good practice to have some joint meetings involving the child, supervising YOT officer and local authority social worker, so that information is shared and the child receives an integrated service. The YOT should consult the local authority over enforcement issues, particularly if there is a possibility of the child being breached for failing to comply with the conditions of the DTO, that is, when the YOT considers the child has broken the conditions of their Notice of Supervision and issues proceedings to return the child to court, when they may be returned to custody (children on Licence can be recalled to custody without returning to court). Where the child is having difficulty in complying with their “release” conditions, the local authority should work with the YOT to put additional support in place.