
STATUTORY INSTRUMENTS

2013 No. 000

SOCIAL CARE, ENGLAND

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children’s Homes (Amendment) Regulations 2013

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

The Secretary of State, in exercise of the powers conferred upon him by sections [1(4A), 11(4), 12(2), 14(1)(d), 15(3) and (5), 16(1) and (3), 22(1), (2)(a) to (d) and (f) to (j), (5)(a) and (c), (7)(a) to (d) and (g) to (j), 31(7), 35, 42(1), 118(5) to (7) of the Care Standards Act 2000(a)], and having consulted such persons as he considers appropriate(b),] makes the following Regulations.

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Children’s Homes (Amendment) Regulations 2013 and come into force on [XXX 2013].

(2) These Regulations apply in relation to England.

Amendments to the Children’s Homes Regulations 2001

2.The Children’s Homes Regulations 2001(c) are amended as follows.

3.In regulation 2, insert where appropriate—

““care plan” has the meaning given to it in the Care Planning, Placement and Case Review (England) Regulations 2010(d);”

““care role” means working in a position which consists mainly or solely of providing care for children”;

““Children and Young Peoples Workforce Diploma” means [.....]”;

(a) 2000 c.14 (“the Act”). The powers are conferred upon the “appropriate Minister” who is defined in section 121(1) of the Act, in relation to England, as the Secretary of State. See section 121(1) of the Act for the definitions of “prescribed” and “regulations”.

(b) See section 22(9) of the Act for the requirement to consult.

(c) S.I. 2001/3967, which was amended by [XXX].

(d) S.I. 2010/959, which was amended by [XXX].

““Diploma in Leadership for Health and Social Care and Children and Young People’s Services” means [.....];”;

““independent person” means a person appointed by the registered provider in accordance with regulation 33;”;

““recognised social work qualification” means [.....];”;

““required qualification” means—

- (i) a recognised social work qualification; or
- (ii) level 5 in the Diploma in Leadership for Health and Social Care and Children and Young People’s Services.”.

4.In regulation 8—

(a) after paragraph (2) insert—

“(3) For the purposes of sub-paragraph (2)(b)(i), a person does not have the qualifications, skills and experience necessary to manage the children’s home unless he has—

- (a) subject to paragraph (4), attained the required qualification;
- (b) within the last 5 years, worked for at least 2 years in a position relevant to the residential care of children; and
- (c) worked for at least one year in a role requiring the supervision and management of staff working in a care role.”;

(b) after paragraph (3), as so inserted, insert—

“(4) A person who has not attained the required qualification is fit to manage a children’s home where the registered provider is satisfied that that person will attain the required qualification—

- (a) within 3 years of the date on which they start work in that role; and
- (b) in any event, by no later than 1st April 2018.”.

5.In regulation 11(1)(b), for “supervision” substitute “safeguarding, supervision, support”.

6.In regulation 16—

(a) for paragraph (4)(b) substitute—

“(b) a written policy for the prevention of children accommodated in the home being absent without permission, which must include the procedures to be followed if a child is so absent.”;

(b) after paragraph (4)(b), as so substituted, insert—

“(5) The policy described in sub-paragraph (4)(b) shall be—

- (a) agreed with the local police service; and
- (b) produced with regard to any relevant local authority or police protocols on missing children.

(6) Where a child, for whom a care plan has been prepared, is—

- (a) persistently absent without permission from the children’s home; or
- (b) in the opinion of the registered person, at risk of harm,

the registered person shall ask the local authority that looks after that child to review that child’s care plan.”.

7.In regulation 26, after paragraph (3) insert—

“(4) Where a person works or is to work in the home in a care role, that person must attain or hold at least a level 3 qualification in the Children and Young Peoples Workforce Diploma not later than—

- (a) two years after the date on which that persons starts work in that position, where the employee is a new recruit; or
- (b) 1st April 2017, where the employee is an existing employee working in such a position at the home.”.

8.In regulation 31, after paragraph (1) insert—

“(1A) The registered person shall—

- (a) ensure that any premises used for the purposes of a children’s home are appropriately located, so that children are effectively safeguarded and are able to access services specified to meet any need identified in the care plans or placement plans of children using the home;
- (b) in consultation with the local police service and the local authority in the area where the home is located, review the suitability of the premises on an annual basis.”.

9.For regulation 33 substitute—

“Visits by independent person

33.—(1) The registered provider shall ensure that the home is visited by an independent person in accordance with this regulation.

(2) The registered provider shall not appoint any of the following as the independent person—

- (a) a person involved in preparing the care plan of any child placed at the home, or a person responsible for managing or supervising that person;
- (b) a person responsible for commissioning or financing services provided by the home;
- (c) a person with a financial interest in the conduct of the home; or
- (d) a person who has, or has at any time had, a connection with the registered person, a person working at the home or a child accommodated at the home of a kind which might reasonably be taken to raise doubts about their impartiality.

(3) Before each visit to a home by an independent person, the registered provider shall agree the arrangements for the visit with the local authority responsible for the area in which the children’s home is located.

(4) The independent person must declare any known potential conflict of interest, whether pursuant to paragraph (2) or otherwise, to the registered provider without delay and, if practicable, before conducting a visit to the home under this regulation.

(5) Where the registered provider is notified of a potential conflict of interest by the independent person before he has visited the home or during his visit to the home, the registered provider must appoint a new independent person to visit the home in his place.

(6) Where the independent person notifies the registered provider of a potential conflict of interest after his visit to the home, the independent person must include in his report pursuant to paragraph (9)—

- (a) details of the conflict of interest; and
- (b) the reasons why he did not notify the registered provider of the conflict of interest before the visit.

(7) Visits by the independent person under paragraph (1) shall take place at least once a month and may be unannounced.

(8) The independent person, when carrying out a visit, shall—

- (a) interview, with their consent and in private, such of the children accommodated there, their parents, relatives and persons working at the home as appears necessary in order to form an opinion as to whether—

- (i) children accommodated the home are effectively safeguarded; and
 - (ii) the conduct of the home promotes the wellbeing of the children accommodated there;
 - (b) inspect the premises of the home, and such of the home's records, as the independent person requires (save for a child's case records, unless the child and the child's placing authority consent to the inspection of those records by the independent person).
- (9) The independent person shall produce a written report on a visit and provide a copy of the report to—
- (a) the registered provider and the registered manager;
 - (b) HMCI;
 - (c) the placing authorities of children accommodated in the home; and
 - (d) upon request, the local authority responsible for the area in which the home is located.”.

10. In regulation 34(1)(a), for “appropriate intervals” substitute “least once in every 3 months”.

11. For Schedule 1, substitute—

“SCHEDULE 1

Matters to be included in the Statement of Purpose

- 1.** A statement of the range of needs that the home is intended to meet and the characteristics of children to be cared for by the home.
- 2.** Details of the home's ethos, and the outcomes that the home seeks to achieve and its approach to achieving them.
- 3.** [A requirement for the Statement of Purpose to be published on the home's website and made available to commissioners, parents and others.]
- 4.** The name and work address of—
 - (a) the registered provider (including details of the company owning the home);
 - (b) if different, the responsible individual; and
 - (b) the registered manager.
- 5.** Details of the qualifications and experience of staff working at the home, including any staff commissioned to provide education and health care.
- 6.** Details of arrangements for the professional supervision of staff employed at the home, including staff that provide education or health care.
- 7.** Where the home is dually registered as a school, details of the curriculum provided by the home and the structure and management of the arrangements for education.
- 8.** Details of provision to support children with special educational needs.
- 9.** Where the home is not dually registered as a school, the arrangements for children to attend local schools and the provision made by the home to promote the educational attainment of children.
- 10.** Details of any therapeutic care or therapy provided, including—
 - (a) details of the qualifications and clinical supervision of the staff involved;
 - (b) information about the evidence referred to by the home to support its approach, and where this information can be accessed;

- (c) information about how the home measures the effectiveness of its approach and how this information can be accessed.
 - 11.** Details of the home’s policies for protecting children and for the prevention of children going missing.
 - 12.** A description of the home’s approach to the surveillance and monitoring [of children accommodated there].
 - 13.** Details of the home’s approach to behavioural support, including information about—
 - (a) the home’s approach to the use of physical intervention and restraint of children accommodated;
 - (b) how persons working in the home are trained in the uses of physical intervention and how their competence is assessed.
 - 14.** A description of the accommodation offered by the home, including how accommodation has been adapted to the needs of children cared for by the home.
 - 15.** A description of the location of the home, including details of any “risk assessment carried out pursuant to [regulation 31(1A)].
 - 16.** The arrangements for supporting the religious, cultural and linguistic needs of children accommodated in the home.
 - 17.** The arrangements for promoting contact between a child and their family and friends.
 - 18.** The arrangements for enabling children to enjoy and achieve.
 - 19.** A description of the home’s approach to consulting children about the quality of their care.”.
- 12.** In Schedule 5—
- (a) for “Referral to the Secretary of State pursuant to section 2(1)(a) of the Protection of Children Act 1999” substitute “Referral pursuant to section 35 of the Safeguarding Vulnerable Groups Act 2006”;
 - (b) for “prostitution” substitute “sexual exploitation”.
- 13.** For Schedule 6, substitute—

“SCHEDULE 6

Matters to be monitored by the registered person

- 1.** Any safeguarding concerns or incidents in respect of children accommodated at the home and the measures taken by the persons working at the home to respond effectively to these to ensure the child’s safety and welfare.
- 2.** The number of reports of children accommodated at the home being absent without permission
- 3.** The measures taken by staff—
 - (a) to prevent children from going missing from the home; and
 - (b) in response to a child going missing from the home.
- 4.** The effectiveness of arrangements agreed between the home, local police and the local authority for responding to missing persons incidents in relation to children accommodated at the home.

5. The effectiveness of the home's approach to behavioural support, including arrangements for commissioning training for staff in behaviour management and restraint.
6. The number of times that children accommodated at the home are restrained and the steps taken by the home to minimise the use of restraint.
7. The effectiveness of the home's procedures and guidance concerning police involvement in the home, including the arrangements to promote the positive behaviour of the children accommodated in the home.
8. Whether there have been any occasions when children accommodated in the home have been charged and taken to court for offences committed within the home.
9. Where the home is dually registered as a school, the effectiveness of the home's arrangements for education, including the educational outcomes of children accommodated at the home.
10. Where the home is not dually registered as a school, the effectiveness of the home in promoting the educational attainment of children in its care and the quality of relationships between the home and local schools.
11. The arrangements, if any, for commissioning therapeutic services appropriate to the needs of children accommodated by the home and the effectiveness of any such arrangements in achieving clinical outcomes for the children accommodated by the home.
12. The arrangements for children to be provided with general medical practitioner and other primary health care services, including access to screening and preventive services in the local community.
13. [Records of] [The number of] children requiring accident and emergency treatment and other hospital services.
14. The home's arrangements for recruitment, training and continuing professional development of staff working at the home.
15. Details of any disciplinary action concerning employees of the home and of any staff grievances.
16. The reasons for staff ceasing employment at the home.
17. The arrangements for admitting children to the home.
18. The arrangements for monitoring the quality of the home's care.
19. The arrangements for consultation with placing authorities, the local authority in whose area the home is located and other community services used by children accommodated at the home.
20. In respect of each child accommodated in the home, compliance with the placing authority's care plans and placement plans.
21. The arrangements for consulting children about the quality of the home's care and for acting on the results of such consultation."

Amendments to the Care Standards Act 2000 (Registration) (England) Regulations 2010

14. The Care Standards Act 2000 (Registration) (England) Regulations 2010(a) are amended as follows.

15. In regulation 7(5), for "paragraphs 1, 2, 3 or 10" substitute "paragraph 3".

(a) S.I. 2010/2130, which was amended by [XXX].

Draft for consultation only

16. In paragraph 13(b) of Schedule 1, after “located” insert “, and, in the case of a children’s home, a description of the steps taken to ensure that the home is appropriately located pursuant to [regulation 31(1A)] of the Children’s Homes Regulations 2001”.

EXPLANATORY NOTE

(This note is not part of the Regulations)