



HM Government

The Children Act 1989 Guidance and Regulations

Volume 2: Care Planning, Placement and Case Review

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Preface

Status

Volume 2 of the Children Act 1989 Guidance and Regulations provides guidance, primarily addressed to local authorities and their staff in England, about their functions under Part 3 of the Children Act 1989. It is issued as guidance under section 7 of the Local Authority Social Services Act 1970 which requires local authorities in exercising their social services functions, to act under the general guidance of the Secretary of State. This guidance should be complied with by local authorities when exercising these functions, unless local circumstances indicate exceptional reasons that justify a variation.

The guidance is addressed to:

- children's services social workers;
- frontline managers who have particular responsibilities in relation to looked after children;
- lead members in local authorities;
- directors of children's services;
- managers of services for looked after children; and
- commissioners of services for looked after children.

It will also be relevant to Children's Trust partner agencies, and to providers of services to looked after children, including private, voluntary and public sector providers.

Looked after children deserve the best experiences in life, from excellent parenting which promotes good health and educational attainment, to a wide range of opportunities to develop their talents and skills in order to have an enjoyable childhood and successful adult life. Stable placements, good health and support during transition are all essential elements, but children will only achieve their potential through the ambition and high expectation of all those involved in their lives.

Chapter 1. Introduction

Summary

- 1.1** This guidance sets out the functions and responsibilities of local authorities and partner agencies under Part 3 of the Children Act 1989 ('the 1989 Act'), which concerns the provision of local authority support for children and families. In particular it describes how local authorities should carry out their responsibilities in relation to care planning, placement and case review for looked after children. These responsibilities are designed to support the local authority in its primary duty set out in section 22(3) of the 1989 Act to safeguard and promote the welfare of the looked after child and to act as good corporate parents to enable each looked after child to achieve his/her full potential in life.
- 1.2** This guidance accompanies the Care Planning, Placement and Case Review (England) Regulations 2010 ('2010 Regulations'), which bring together in a single set of Regulations those duties which are at the heart of effective corporate parenting to improve the outcomes of looked after children, namely:
- placing the child at the centre of the work;
 - effective care planning;
 - ensuring that a child or young person is provided with accommodation which meets his/her needs; and
 - ensuring that an effective review is conducted of the child's case within the specified timescales.
- 1.3** This guidance is issued as part of a suite of statutory guidance which, together with the 2010 Regulations, set out how local authorities should carry out the full range of responsibilities in relation to care planning, placement and review for looked after children. **Annex 1** shows how these and other documents fit together within an overall framework, the aim of which is to provide looked after children with the most appropriate placement to meet their needs and improve their outcomes.

The Children Act 1989: key principles

- 1.4** A key principle of the 1989 Act is that children are best looked after within their families, with their parents playing a full part in their lives, unless compulsory intervention in family life is necessary. That principle is reflected in:
- the concept of parental responsibility;

- the ability of unmarried fathers to share that responsibility by agreement with the mother, by joint registration at birth or by court order;
- the local authority's functions to provide services which support children and their families;
- the local authority's duty to return a looked after child to his/her family unless this is against his/her interests; and
- the local authority's duty, unless it is not reasonably practicable or consistent with his/her welfare, to endeavour to promote contact between a looked after child and his/her parents or others.

Principles in relation to children and their families

1.5 Good social care practice recognises the following principles when working with children and their families:

- Time is a crucial element in work with children and should be reckoned in days and months rather than years.
- Parents should be expected and enabled to retain their responsibilities and to remain as closely involved as is consistent with their child's welfare, even if that child cannot live at home either temporarily or permanently.
- If children have to live apart from their family, both they and their parents should be given adequate information and helped to consider alternatives and contribute to the making of an informed choice about the most appropriate form of care.
- Continuity of relationships is important and attachments should be respected, sustained and developed.
- A change of home, carer, social worker or school almost always carries some risk to a child's development and welfare.
- All children need to develop their own identity, including self-confidence and a sense of self-worth.

1.6 These principles reflect the intention in 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.

The UN Convention and the European Convention on Human Rights

- 1.7** The United Nations Convention on the Rights of the Child (UNCRC) is an international human rights treaty to which the UK is a signatory, which grants all children and young people aged 17 and under a comprehensive set of rights. These include the right to:
- special protection measures and assistance;
 - access to services such as education and health care;
 - develop their personality, abilities and talents to the fullest potential;
 - grow up in an environment of happiness, love and understanding; and
 - be informed about and participate in achieving their rights in an accessible and active manner.
- 1.8** The Human Rights Act 1998 gives further effect in UK law to the rights and freedoms contained in the European Convention on Human Rights (ECHR).

The child's wishes and feelings

- 1.9** Section 22(4) of the 1989 Act, consistent with Article 12 of the UNCRC, provides that, 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. Section 22(5) provides that, in making any decision in relation to the child, it should give due consideration to those wishes and feelings, having regard to the child's age and understanding.
- 1.10** Children should feel that they are active participants and engaged 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, s/he is likely to feel less fearful if s/he understands what is happening and has been listened to from the beginning. Close involvement will make it more likely that s/he feels some ownership of what is happening and it may help him/her understand the purpose of services or other support being provided to him/her, his/her family and carer. Where a child has difficulty in expressing his/her wishes and feelings about any decisions being made about him/her, consideration must be given to securing the support of an advocate.
- 1.11** There are further practical reasons for ascertaining a child's wishes and feelings during the care planning, placement and review process:

- 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; and
- engaging children helps to recognise their difficulties, develop their strengths and promote their resilience.

1.12 The child's views as expressed should always be discussed, recorded and given due consideration before a placement decision is made, at every review meeting and at case conferences. The possibilities and options identified should be explained, discussed and, if necessary, reassessed in the light of the child's views. The social worker should be aware of and acknowledge that there may be good reasons why the child's views are different from those of his/her parents or the local authority.

1.13 The more mature the child, the more fully s/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's needs and interests as seen by the child and his/her parents. With a young child, the social worker should be creative and imaginative in finding ways to communicate and discover his/her feelings. All children need to be given information and appropriate explanations so that they are in a position to develop their own views and make informed choices.

Corporate parenting and multi-agency involvement

1.14 The responsibility of local authorities in improving outcomes and actively promoting the life chances of children they look after has become known as 'corporate parenting' in recognition that the task must be shared by the whole local authority and partner agencies. The role of the corporate parent is to act as the best possible parent for each child they look after and to advocate on his/her behalf to secure the best possible outcomes.

1.15 However, they cannot fulfil this responsibility without the full co-operation and support of a range of other agencies which provide services to children and their families. All partners in the Children's Trust should share responsibility for narrowing the outcomes gap for looked after children and Children's Trust Boards should regularly review services for looked after children to ensure that they are effectively safeguarded and provided with the opportunities they need. See the statutory

guidance on co-operation arrangements, including the Children's Trust Board and the Children and Young People's Plan, for further information.¹

- 1.16** The Government White Paper *Care Matters: Time for Change*² set out an expectation that every local area should develop a pledge for children in care setting out their statutory entitlements and the specific opportunities and support available to them. Looked after children should be involved in developing the pledge which should be regularly reviewed.

The legal context

- 1.17** The functions (including powers and duties) of local authorities in relation to children who are looked after by them are set out in the 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, and the associated Regulations and guidance in relation to those functions. Section 22(3) of the 1989 Act sets out the general duty of the local authority looking after a child to safeguard and promote the welfare of the child. This duty underpins all activity by the local authority in relation to looked after children.
- 1.18** This guidance is issued as part of a suite of materials which, together with the 2010 Regulations, set out how local authorities and their partners should carry out their full range of responsibilities in relation to care planning, placement and review for looked after children. **Annex 1** shows how the documents fit together within the overall framework set out here. Practitioners and managers will need to be familiar with the primary legislation, the associated Regulations and the statutory guidance.
- 1.19** All the functions of local authorities set out in the primary legislation, Regulations and guidance, depend on the exercise of professional judgement by social workers and other practitioners, informed by their direct engagement with children and their families.

The looked after child

- 1.20** A child is looked after by a local authority if s/he is in their care by reason of a care order or is being provided with accommodation under section 20 of the 1989 Act for more than 24 hours with the agreement of the parents, or of the child if s/he is aged 16 or over (section 22(1) and (2) of the 1989 Act).
- 1.21** For a child who is 'accommodated' under a section 20 voluntary arrangement ('an accommodated child'), the local authority does not have parental responsibility for the child – parental responsibility remains with the parents. However, the authority must comply with the duties set out in the 1989 Act and with the relevant

Regulations. Although a care order gives the local authority parental responsibility for the child, any person who is a parent or guardian also retains their parental responsibility and may continue to exercise it to the extent that their actions are not incompatible with the care order (as set out in section 2(8) and section 33(3)(b) of the 1989 Act).

- 1.22** Children who are placed away from home under an emergency protection order, 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 (section 21 of the 1989 Act).

Definitions

- 1.23** References in this guidance to:

- 'the 1989 Act' are to the Children Act 1989;
- 'the 2002 Act' are to the Adoption and Children Act 2002;
- 'the 2010 Regulations' are to the Care Planning, Placement and Case Review (England) Regulations 2010;
- 'the 2002 Regulations' are to the Fostering Services Regulations 2002;
- a numbered section or Schedule, are a reference to that section or Schedule in the 1989 Act;
- a regulation, are a reference to that regulation in the 2010 Regulations unless otherwise specified;
- 'responsible authority' are to the local authority which looks after the child;
- 'area authority' are to the local authority for the area in which a child is placed or is to be placed, where this is different to the responsible authority; and
- 'area' means the local authority area of the responsible authority.

1.24 The following terms are also used:

- 'IRO' is the independent reviewing officer for the child;
- 'child' or 'children' is used to refer to all children under the age of 18 years (where the context specifically relates to older children, the term 'young person' is used);
- an 'eligible child' (defined in paragraph 19B of Schedule 2 to the 1989 Act, and in regulation 40 of the 2010 Regulations) is a looked after child aged 16 or 17, who has been looked after for a total of at least 13 weeks which began after s/he reached the age of 14, and ends after s/he reaches the age of 16;
- a 'relevant child' is a young person aged 16 or 17 who was an 'eligible child' but is no longer looked after, defined in section 23A of the 1989 Act and regulation 4 of the Children (Leaving Care) (England) Regulations 2001;
- a 'former relevant child', defined in section 23C of the 1989 Act, is a young person aged 18 or over who was either an eligible or a relevant child. The local authority has duties in relation to former relevant children until they reach the age of 21, or 25 in the case of former relevant children who are pursuing a programme of education or training;
- a local authority foster parent, referred to in this guidance as a local authority 'foster carer', is a person who is approved as a local authority foster parent (it includes foster carers who have been approved by an independent fostering agency and foster carers who have been approved by the local authority, as set out in the 2002 Regulations);
- a 'carer' or 'the child's carer' is the person with whom the child is living in foster care or a registered children's home; and
- a 'parent' is a person who is the parent of the child, a person who is not the child's parent but who has parental responsibility for the child or, where the child is in care and there was a residence order in force with regard to the child immediately before the care order was made, a person in whose favour a residence order was made.

1.25 To assist the reader in cross-referencing this text to key sections of the 1989 Act or to the 2010 Regulations, these are signposted in the text as follows:

[Schedule or section of the 1989 Act]

[Part, Schedule or regulation in the 2010 Regulations]

Overview of the legislation and regulations in relation to this guidance

Primary legislation

- 1.26** 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 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.

Regulations

Table 1: Summary of the 2010 Regulations

Care planning	
4	An explicit requirement to prepare a care plan and requirements for when the plan must be produced.
5 – 6	The content of the care plan, including the requirement to include a plan for permanence ('permanence plan'), the arrangements to meet the child's needs, and the arrangements to keep the care plan under review.
7	Health care arrangements, including the requirement for a medical practitioner to carry out a health assessment, and timescales for this.
8	Contact arrangements in relation to a child subject to a care order – requirements in relation to the written information that must be provided by the responsible authority if they refuse to allow contact between the child and another person.
Placement	
9	Preparation of a placement plan for each child, including timescales.
10 – 14	Avoidance of disruption in education, placements out of area, written notification of placements ('notifications') and termination of placements.
15 – 20	Arrangements for placing a child in care back home with parents, including a placement before the assessment is completed.

Table 1: Summary of the 2010 Regulations

21 – 27	Placing a child with a local authority foster carer and in other arrangements.
28 – 31	Arrangements for social workers to visit a looked after child including the differing frequency requirements depending on the type of placement. There is a requirement for advice, support and assistance to be available in between visits.
Review	
32 – 33	Duty and timescales for carrying out reviews, including the statutory minimum frequency.
34 – 36	The conduct of the review, including the need to have a written policy on the manner in which reviews are to be conducted, which is to be made available to the child and family.
37 – 38	Implementing decisions and recording the outcome of reviews.
Ceasing to look after a child	
39	The requirement for a care plan to include services to be in place to support an accommodated child who is ceasing to be looked after.
40 – 44	Arrangements for preparing for an eligible child to leave care.
Independent reviewing officers (IROs)	
45 – 46	Details of additional IRO functions, including their role in assisting the child to obtain legal advice or bring legal proceedings on his/her behalf, in line with the extended remit of IROs in relation to the oversight of a child's case.
Independent visitors	
47	The definition of 'independent' in relation to independent visitor (see section 23ZB of the 1989 Act).
Short breaks	
48	Application of the 2010 Regulations to arrangements for short breaks in recognition of the continuing role of birth parents in safeguarding and promoting their child's welfare.
Case records	
49 – 50	Details of the requirement to establish and maintain a written case record for the child and the retention and confidentiality of the records.

Chapter 2. Care planning

The purpose of care planning and review

- 2.1** Care planning and case reviews are about bringing together children who are looked after, their families, the child's carers and professionals, in order to plan for the care of the child and to review that plan on a regular basis. Assessing the needs of children and deciding how best to meet those needs is a fundamental part of social work with looked after children. To do this effectively not only requires an understanding of the importance of planning, but also the conceptual and practice framework for planning. The purpose of such a framework is threefold:
- i. to ensure that children and their families and the child's carers are treated with openness and honesty and understand the decisions that are made;
 - ii. to provide clarity about the allocation of responsibilities and tasks, in the context of shared parenting between parents, the child's carers and the corporate parents and ensure that actions lead to improved outcomes; and
 - iii. to demonstrate accountability in the way in which the functions of local authorities under the 1989 Act are exercised.
- 2.2** Part 2 of the 2010 Regulations sets out the arrangements which the responsible authority must make for looking after a child. 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 long term plan for the child's upbringing (referred to as 'the permanence plan') to which everyone is working, including the team around the child, the child and, where appropriate, the family [\[regulation 5\(a\)\]](#). There should be clarity in the care plan, particularly about the desired outcomes for the child and those expected from services and other actions identified. This clarity will support effective reviews of the child's case to monitor the progress made towards meeting the short and long term goals for the child and his/her family and the child's carers.

Permanence planning

- 2.3** Permanence is the framework of emotional permanence (attachment), physical permanence (stability) and legal permanence (the carer has parental responsibility for the child) which gives a child a sense of security, continuity, commitment and identity. The objective of planning for permanence is therefore to ensure that children have a secure, stable and loving family to support them through childhood and beyond. Permanence provides an underpinning framework for all social work

with children and families from family support through to adoption. 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 2002 Act.³ Achieving permanence for a child will be a key consideration from the day the child becomes looked after.

2.4 A range of options for permanence exists, all of which can deliver good outcomes for individual children:

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

2.5 The planning process, informed by multi-agency contributions, will identify which option is most likely to meet the needs of the individual child and take account of his/her wishes and feelings. The child's care plan will set out details of this plan and the arrangements for implementing it.

2.6 It is also important to think about the needs of older children and young people in relation to achieving permanence in their lives. They may not be able to live with birth parents for a variety of reasons nor wish to be in a foster home or to be adopted but prefer to live in a children's home. Nevertheless the care planning process must identify adults such as wider family and friends or other connected people who can provide emotional support and a long term trusting relationship which will provide continuing support, particularly during periods of transition. Good quality work with families can help the young person build bridges back to his/her parents or other family members who may be able to provide that support even though it is not possible for the young person to live at home.

The relationship between the care plan and other plans

The care plan, health plan and personal education plan

- 2.7** The child's care plan provides the overarching vehicle for bringing together information from the assessment across the seven dimensions of the child's developmental needs [regulation 5] and from any other assessments of the child and his/her family. The health and education dimensions of the care plan are populated by the health plan [regulation 7] and the personal education plan (PEP) [regulation 5(b)(ii)].

The care plan and placement plan

- 2.8** When a suitable placement has been identified for the child the placement plan will set out in detail how the placement is intended to contribute to meeting the child's needs as set out in the care plan [regulation 9]. The placement plan is concerned both with what may need to happen in the placement to achieve the permanence plan – for example promoting positive contact to support a return to home or helping the child move to an adoptive family – and with the way in which a child's needs will be met on a day to day basis and it is therefore integral to the care plan. It is essential that the placement plan is developed in partnership with the child (where appropriate), the child's carer and the parent as well as the social worker to ensure that the contribution required of all parties for the success of the placement is clearly recorded. Further guidance on placement plans is set out in **paragraphs 3.128 to 3.154**.

The care plan and pathway plan

- 2.9** At the point at which a young person becomes an eligible child and it is envisaged that s/he will be leaving care, the pathway plan must be prepared which must include the child's care plan. This is in order to capture the actions which will be necessary from the responsible authority, the young person's carer, young person, parent and other identified parties in order for the young person to make a successful transition from care.

The care plan and child protection plan

- 2.10** In most cases where a child who is the subject of a child protection plan becomes looked after it will no longer be necessary to maintain the child protection plan. There are however a relatively few cases where safeguarding issues will remain and a looked after child should also have a child protection plan. These cases are likely to be where a local authority obtains an interim care order in family proceedings but the child who is the subject of a child protection plan remains at home, pending

the outcome of the final hearing, or where a young person's behaviour is likely to result in significant harm to themselves or others.

- 2.11** Where a looked after child remains the subject of a child protection plan it is expected that there will be a single planning and reviewing process, led by the IRO, which meets the requirements of both the 2010 Regulations and guidance and *Working Together to Safeguard Children*.⁴
- 2.12** The systems and processes for reviewing child protection plans and plans for looked after children should be carefully evaluated by the local authority and consideration given to how best to ensure the child protection aspects of the care plan are reviewed as part of the overall reviewing process leading to the development of a single plan. Given that a review is a process and not a single meeting, both reviewing systems should be aligned in an unbureaucratic way to enable the full range of the child's needs to be considered in the looked after child's care planning and reviewing processes.
- 2.13** It is recognised that there are different requirements for the independence of the IRO function compared to the chair of the child protection conference. In addition, it is important to note that the child protection conference is required to be a multi-agency forum, while children for the most part want as few external people as possible at a review meeting where they are present. However it will not be possible for the IRO to carry out his/her statutory function without considering the child's safety in the context of the care planning process. In this context consideration should be given to the IRO chairing the child protection conference where a looked after child remains subject to a child protection plan. Where this is not possible it will be expected that the IRO will attend the child protection review conference.
- 2.14** This means that the timing of the review of the child protection aspects of the care plan should be the same as the review under Part 6 of the 2010 Regulations, to ensure that up to date information in relation to the child's welfare and safety is considered within the review meeting and informs the overall care planning process. The looked after child's review, when reviewing the child protection aspects of the plan, should also consider whether the criteria continue to be met for the child to remain the subject of a child protection plan. Significant changes to the care plan can only be made at the looked after child's review.

The care planning process

- 2.15** Care planning is a core element of the assessment, planning, intervention and review cycle which underpins social work with children and families (see **Annex 2**). The primary focus of the legislation about children in need, which includes children looked after by the local authority, is how well they are progressing and whether

their health or development will be impaired without the provision of services by the authority [section 17(10)]. The cycle of assessment, planning, intervention and review must therefore focus on the child's developmental progress, including his/her health, and the desired outcomes for the child, taking account of the wide range of influences which affect a child's development both positively and negatively.

- 2.16** The conceptual framework whereby the multiple influences on a child's development can be understood and assessed, services planned and delivered, and their impact reviewed is set out in guidance in the *Framework for the Assessment of Children in Need and Their Families*⁵ ('the Assessment Framework'). The Assessment Framework describes how a child's developmental needs, parental capacity and wider family and environmental factors are assessed, enabling the desired outcomes to be identified and planned for.
- 2.17** The IRO appointed for the child is responsible for monitoring the performance of the responsible authority functions in relation to the child's case [section 25A(1)]. The intention is to enable the IRO to have an effective and independent oversight of the child's case to ensure that the care plan represents an effective response to the assessed needs of the child and that progress is being made towards achieving the identified outcomes. Detailed guidance on the responsibilities of the IRO in relation to a child's case and to the review process are set out in **Chapter 4**.

The cycle of assessment, planning, intervention and review

Assessment

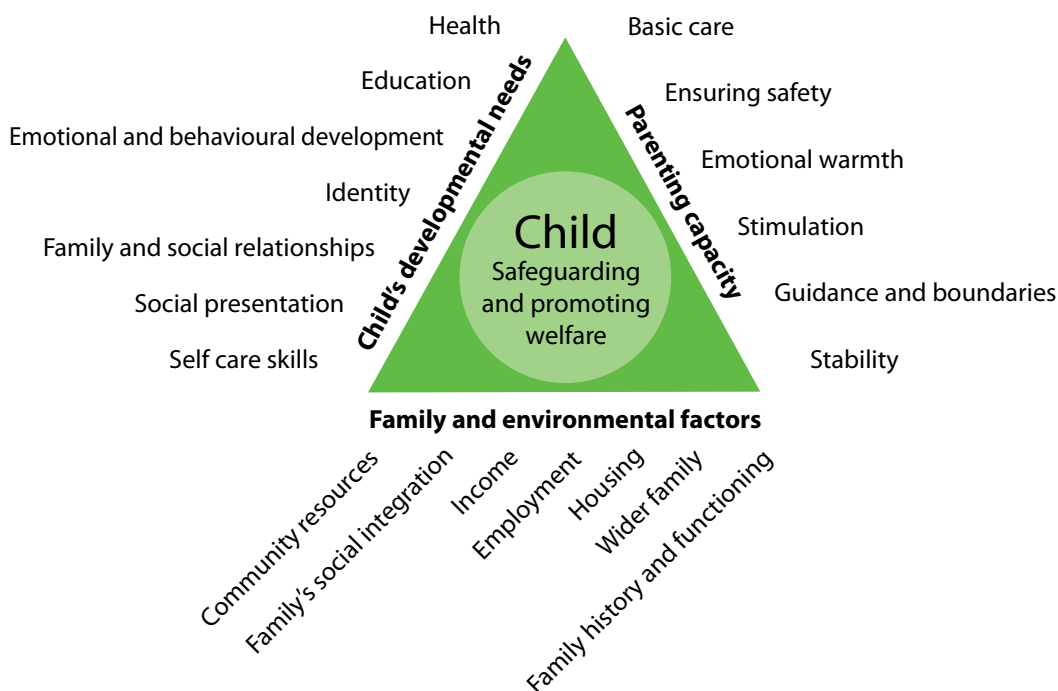
- 2.18** Work with children in need and their families is built on a comprehensive assessment process. Robust assessment underpins the effectiveness of all subsequent actions and interventions and is essential to ensure improved outcomes for children. The process of assessment seeks to understand the complex interaction between the inner world of a child and his/her family or carers, and the outer world of social and environmental factors. The more complex the circumstances of the child, the more important becomes the level and skill of professional expertise of those undertaking the assessment, the extent of direct work with the child and family, and the degree of interagency co-operation required.
- 2.19** An important part of assessment is consulting the child, his/her parent and other members of the family (and other involved adults) to ascertain their wishes and feelings as appropriate. It is at this stage that work to develop a partnership with parents must start, to encourage continuity of the parental role in the child's life and to help the child and parents share in the decision-making. Patterns of working and attitudes established at this early stage will, in most cases, influence the success of all future work.

- 2.20** Responsible authorities should seek to identify and consult practitioners in other agencies as part of the assessment. The parents and the child, if s/he is of sufficient age and understanding, should be informed about who is to be consulted and how information given will be properly safeguarded. Where the child is to be accommodated under section 20 the agreement of all those with parental responsibility must be obtained in advance. Existing carers, including foster carers and the registered manager of a children's home, should already be involved in day to day planning for the child, but a specific opportunity to contribute to formal assessment, planning or review processes should be arranged.
- 2.21** The information gathered during consultation will contribute to the full assessment of the child's needs in relation to safeguarding and promoting the welfare of the child, taking into account any services the responsible authority or other agencies may already be providing. The assessment should link to other assessment processes: a responsible authority may assess a child's needs for the purposes of safeguarding and promoting his/her welfare at the same time as an assessment under any other relevant legislation [[Schedule 2, paragraph 3](#)].
- 2.22** In assessing the need for the provision of local authority services, due account should be taken of the particular needs of the child (for example in relation to 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 child or family, and the services which will most appropriately meet these needs.
- 2.23** Most children 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 Assessment Framework. 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 responsible authority in the context of birth parents' capacity and wider family and environmental factors.
- 2.24** In addition, there are specific statutory requirements in relation to the assessment of the health needs of looked after children [[regulation 7](#)]. When a child becomes looked after, the responsible authority is required to make arrangements for a registered medical practitioner to carry out an assessment of the child's state of health and provide a written report of the assessment. The range of matters to be covered in the assessment and report are specified in the 2010 Regulations [[Schedule 1 \(1\)](#)]. Further guidance is provided in **paragraphs 2.46 to 2.64**.

Dimensions of developmental need

2.25 The Assessment Framework provides a structure for the assessment of need across three domains – the child’s developmental needs, parenting capacity and family and environmental factors. The seven dimensions of developmental need (see **Figure 1** below) will feature prominently in care planning, placement and review. They will underpin the care plan and it will be important for planned outcomes to be specified in each one. **Annex 3** provides an overview of the dimensions – health, education, emotional and behavioural development, identity, family and social relationships and self care skills – with specific reference to care planning considerations.

Figure 1: The Assessment Framework



Planning

2.26 Proactive planning is essential and should begin before a child starts to be looked after, to reduce instances of decisions and placements having to be made 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, the parents and wider family members (as appropriate), and the carers are clear about the purpose of the period of care or the provision of accommodation from the beginning of the placement. 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 smoother and more successful and less disturbing transition for the child. For looked after children, the document in which this process is recorded is the care plan. The child, family members and carers should be in agreement with the proposed care plan and their commitment to it secured.

- 2.27** Using the dimensions relating to a child's developmental needs, parenting capacity and wider family and environmental factors (see **Figure 1**), the care plan should be based on the information ascertained from the assessment and draw on knowledge about interventions that are likely to be most effective for the needs to be addressed. It should be expressed in such a way that it is possible to see what planned actions have taken place and to identify the effectiveness of interventions. The care plan must maintain a focus on the child, even though services may be provided to a number of family members as part of achieving the plan.
- 2.28** For those children who are already known to children's social care services at the point at which they become looked after, an up to date core assessment, a plan for the provision of services under section 17, or a child protection plan may already be in place. Unless there are well-evidenced reasons for a change of direction, the care plan should complement and build on the existing plan for the child. Where a child has not been assessed before becoming looked after, a core assessment will be required to inform the care plan (see **paragraph 2.23**).
- 2.29** Clarity and transparency in the care plan are essential in order that it can be understood by the child (subject to his/her age and understanding), the child's parents and wider family, the child's carer and a range of professionals and practitioners who are supporting the child and family. In order to achieve this the care plan should:
- describe the identified developmental needs of the child and the services required to meet those needs, including services to be provided to family members;
 - describe why a particular placement has been chosen;
 - include specific, achievable, child-focused outcomes intended to safeguard and promote the welfare of the child and identify how progress will be measured;
 - include realistic strategies and specific actions to bring about the changes necessary to achieve the planned outcome;
 - clearly identify and set out the roles and responsibilities of family members, the child's carers and practitioners (including for example GP, nurse and designated teacher), and the frequency of contact of those practitioners with the child, his/her carer and/or family member; and

- describe the contingency arrangements if the proposed permanence plan for the child is not achievable, in order to reduce delay.

2.30 The specific requirements for planning to meet health and education needs are outlined in more detail from **paragraphs 2.46 to 2.75**.

2.31 As part of the assessment process, it is essential when planning a placement to consult all those concerned with the child. 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 in the child's life. Before making any decision with respect to a child whom they are looking after or propose to look after, section 22(4) provides that the responsible authority should:

'as far as is reasonably practicable ascertain the wishes and feeling of:

- *the child;*
- *his parents;*
- *any person who is not a parent of his but had parental responsibility for him; and*
- *any other person whose wishes and feelings the authority consider to be relevant;*

regarding the matters to be decided.'

Intervention

2.32 The critical issue for practitioners and their managers is the decision about which interventions are likely to be most effective for a particular child and family or carers in order to achieve the best possible outcome in the circumstances. The nature of the intervention will depend on the identified permanence plan for the child in the context of the assessment of the child's developmental needs. The following questions should be addressed in considering the most appropriate intervention:

- What are the options for interventions which might help to support strengths and/or meet identified needs?
- What resources are available?
- To which agency or professional and approach is the child, family and/or carer most likely to respond?
- Which intervention is most likely to produce the most immediate benefit and which might take more time?

- What should be the sequence of the interventions and why?
- In the context of a plan for a return home, what is the likelihood of achieving sufficient change within the child's timeframe?

Review

2.33 The process of review is ongoing and starts from the monitoring of an existing care plan. It is important to distinguish between reviewing as a process of continuous monitoring and reassessment, and the case review, which is the event when a child's plan may be considered, reconfirmed or changed, and such decisions agreed and recorded.

2.34 Careful judgement is required to ensure that the timing of the case review reflects a child's individual needs, the objectives of the plan and takes account of diversity. Key issues to be addressed in the review process are:

- the child's participation;
- the appropriate involvement of other agencies;
- supervision and oversight by responsible managers; and
- the extent to which progress is being made towards achieving the identified outcomes (see **Chapter 4** for further guidance on the case review process).

Arrangements for looking after a child

2.35 The requirement to develop a care plan for a child who will or has become looked after applies to an accommodated child and a child who is subject to the requirements of section 31A of the 1989 Act although the court will set the timetable for the latter [\[regulation 4\(1\)\]](#).

The care plan for a voluntarily accommodated child

2.36 Most children who start to be looked after have been known to children's social care services for some time. Where a child is to be voluntarily accommodated it should therefore be possible to begin the care planning process in advance of the care episode. Where this is not possible the care plan must be prepared within ten working days of the start of the first placement [\[regulation 4\(2\)\]](#). The assessment of the child's needs [\[regulation 4\(1\)\]](#) must consider whether the accommodation to be provided for the child meets the requirements as set out in Part 3 of the 1989 Act [\[regulation 4\(3\)\]](#). The care plan will reflect the multi-agency contribution necessary to ensure that it addresses the full range of the child's developmental needs in order to improve his/her outcomes.

- 2.37** Where the young person who is to be accommodated is over the age of 16 and agrees to be provided with accommodation under section 20 the care plan should be agreed with the young person.

The care plan for a child subject to section 31A of the 1989 Act (the Court care plan)

- 2.38** Section 31A of the 1989 Act provides that where an application is made on which a care order might be made with respect to a child, the responsible authority must, within the timetable set by the Court, prepare a care plan and no order can be made until the Court has considered that plan [section 31(3)]. The care plan is therefore critical and will be very influential in the Court's decision. This section of the guidance should be read in conjunction with Volume 1 of the Children Act 1989 Guidance and Regulations (Court Orders)⁶ and the Public Law Outline (PLO).
- 2.39** While there is no requirement for a formal agreement by the parent to the Court care plan, the responsible authority will be aware of the principles underpinning article 8 of the ECHR concerning the 'right to respect for family life' and should ensure that parents are appropriately consulted and that the reasons why their views have or have not been acted upon are recorded.
- 2.40** An essential component of the Court care plan is the long term plan for the child known as the plan for permanence for the child (see **paragraph 2.3**). The quality and robustness of this plan will be critical as the Court considers whether the making of the care order is the most appropriate way to safeguard and promote the child's welfare. For interim hearings under section 38 this may not yet be a confirmed plan.

Court care plans and adoption

- 2.41** In a minority of applications for a care order it becomes clear during proceedings that adoption will be the preferred permanence plan. The responsible authority should ensure that, where they have identified adoption as the planned permanence option, whether at the point of the commencement of care proceedings or during the course of those proceedings, the placement order application is made as part of care proceedings.

Corporate parenting and Court care plans

- 2.42** As outlined above, the care plan for the child encompasses both the plan for permanence and the actions to be taken by the responsible authority and multi-agency partners to achieve this, as well as details of the child's current day to day parenting needs and how they will be addressed. The Court will require information

which enables it to consider the matters set out in the welfare checklist in section 1, whether the threshold criteria at section 31(2) – significant harm – are satisfied and whether making any order will be better for the child than making no order.

- 2.43** It may not therefore be necessary to present to the court all the detail contained in the care plan developed by the responsible authority to fulfil its corporate parenting functions. Within an electronic recording system it should be possible to select the relevant data fields which are required for the Court care plan.

The content of the care plan

- 2.44** There are specific requirements regarding the preparation of the care plan and its content [\[regulation 5 and Schedule 1\]](#). It is important that the care plan records information which will help the child, parent or the child's carer understand why decisions have been or are being made. The effect of the 2010 Regulations is that the care plan should set out:

- the information about the long term plan for the child, including timescales (the permanence plan) [\[regulation 5\(a\)\]](#);
- the arrangements to meet the child's needs [\[regulation 5\(b\)\(i\) to \(vii\)\]](#) in line with the child's developmental needs domain of the Assessment Framework (see **paragraph 2.25** and **Annex 3**), including arrangements for contact:
 - arrangements for contact with a brother or sister who is also looked after but not placed with the child;
 - details of any court orders made under section 8 or section 34; and
 - arrangements for promoting and maintaining contact with a parent and anyone else with parental responsibility [\[regulation 5\(b\)\(v\) and paragraph 3, Schedule 1\]](#);
- details of the placement plan and why the placement was chosen, unless the child is in care and not provided with accommodation by the responsible authority;
- the name of the child's IRO;
- details of the health plan and personal education plan (PEP);
- the wishes and feelings of relevant people about the arrangements for the child; and
- the wishes and feelings of these people about any proposed changes to the care plan.

- 2.45** In drawing up a care plan, the responsible authority should have a contingency plan in the event that the care plan is not achievable.

Care planning requirements in relation to health

- 2.46** The importance of health in relation to a child's development is outlined in **Annex 3**. Responsible authorities are required to provide good health care for the child and the arrangements to monitor the child's health care, in accordance with the health plan [\[regulation 7\]](#). Health care includes:

- medical and dental care and treatment; and
- advice and guidance on health, personal care and health promotion issues [\[regulation 7\(5\)\(b\)\]](#).

- 2.47** The full range of statutory obligations and duties on local authorities and primary care trusts (PCTs) to support and promote the health of looked after children is set out in *Statutory Guidance on Promoting the Health and Wellbeing of Looked After Children*.⁷ It also contains detailed practice guidance to support the work of practitioners across agencies in carrying out these duties.

- 2.48** In this guidance, the statutory requirements on local authorities specifically in relation to care planning are highlighted.

Health assessments

- 2.49** The responsible authority is required to make arrangements for a registered medical practitioner to carry out an assessment of the child's state of health and provide a written report of the assessment [\[regulation 7\(1\)\]](#). The aim of the assessment 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 his/her physical and mental health and wellbeing, and to provide a basis for monitoring his/her development while s/he is being looked after.

- 2.50** The assessment and report must address the matters specified in paragraph 1 of Schedule 1 to the 2010 Regulations. This applies to the first and subsequent assessments and reports. A copy of each report must be given to the child, subject to his/her age and understanding, the parents (unless inappropriate in relation to the child's care plan) and the child's carers and the child's IRO.

- 2.51** It is the responsibility of the responsible authority to make sure that health assessments are carried out. In general, PCTs have a duty to comply with requests by local authorities for assistance to make sure that the assessment happens. The responsible authority must inform the PCT (or the local health board if a child is

being placed in Wales), as well as the general medical practitioner, when a child starts to be looked after or changes placement [\[regulation 13\(2\)\(f\) and \(g\)\]](#).

2.52 Where the child is to be placed out of area, local authorities should notify the PCT for the area in which the child is currently living, and the PCT and the local authority for the area in which the child is to be placed.

2.53 The first assessment must be carried out by a registered medical practitioner while 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 [\[regulation 7\(3\)\]](#).

2.54 In order to inform the actions in the health plan, the health assessment should include:

- an assessment of the child's state of health including his/her physical, emotional and mental health;
- the child's health history including, as far as practicable, the child's family's health history;
- the effect of health and health history on the child's development;
- existing arrangements for medical and dental care, appropriate to the child's needs, including:
 - routine checks of the child's general state of health, including dental health;
 - treatment and monitoring for identified health or dental care needs;
 - preventive measures such as inoculation;
 - screening for defects of vision or hearing;
 - advice and guidance on promoting health and effective personal care; and
- planned changes to current arrangements.

Frequency of health assessments

2.55 The first 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 a written report should certainly be complete before the first review of the child's case [\[regulation 5\(1\)\]](#).

2.56 Health assessments should take place:

- at least once every six months in the case of children aged under five; and
- at least once every 12 months in the case of children aged five and over.

2.57 The first five years of a child's life are fundamental. Local authorities, working in partnership with Primary Care Trusts and practice-based commissioners and providers of services, should ensure that looked after children have access to the universal programme of health and development reviews and services that they need to receive if they are to achieve their optimum health and wellbeing.

2.58 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 statutory requirements [[Schedule 1, paragraph 1](#)], then an assessment does not need to be carried out before the placement or in time for the first review but the cycle for future health assessments must start from the date of the first review.

2.59 Many looked after children return to birth parents when they cease to be looked after so it is good practice to involve parents in health assessments to provide an opportunity to obtain child and family health history directly as well as to obtain consent to gather further necessary data from GPs, consultants and hospitals. Having a complete personal and family health history will considerably enhance the value of all current and future health assessments and facilitate better awareness of health needs when a child returns home or, where return home is not possible, in other permanence arrangements or in future placements. Where a child is provided with accommodation by the responsible authority under section 20 the parents must be given the opportunity to be involved in the child's health assessment.

2.60 In cases where a child refuses consent to an assessment, and it is decided s/he is of sufficient understanding to do so, there is no requirement to carry out a health assessment in accordance with regulation 7(1) or provide a written report of a health assessment. However, in these cases, the child's health should still be considered as part of the care planning and review process. Best practice in local authorities has, however, shown that a child is more likely to participate in health assessments when s/he is encouraged and supported to attend, when the assessment is designed to address the issues which are of most concern to the child and when the assessment takes place in a suitable and accessible environment.

Health plans

2.61 The health plan is developed from the assessment of the child's health needs and forms the health dimension of the care plan. There is a wide range of information

which must be included in the health plan, including health history, current arrangements for health care, routine health checks and screening, preventive measures and health promotion [Schedule 1, paragraphs 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.

- 2.62** A looked after child may also undergo routine health checks at school, alongside their peers, as part of the Healthy Child Programme.⁸ Issues raised by school health checks and actions to be taken should be included in the child'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 child's carer and to the child's social worker. The information should also continue to be provided to the parents of an accommodated child and to the parents of a child on a care order, where appropriate.
- 2.63** When drawing up a health plan for a child, 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 with a registered general medical practitioner and arranging regular check-ups with a dentist. In the case of a child with disabilities or other 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 being looked after as it is for any other child. An informed and sensitive approach is especially necessary for these children 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

- 2.64** Issues raised by the health review should be considered as part of the care planning and review process and any necessary actions included in revisions to the care plan.

Care planning requirements in relation to education

- 2.65** Local authorities are required to promote educational achievement as an integral part of their duty to safeguard and promote the welfare of the children they look after [section 22(3)(a)]. This means that the authority must 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 the responsible authority, wherever they are placed. It includes making sure that young children access nursery or other high quality nursery provision and extends to supporting relevant and former relevant children to do as well as they possibly can in education.

- 2.66** The arrangements which local authorities and their partner organisations should make are set out in greater detail in the statutory guidance *Promoting the Educational Achievement of Looked After Children*.⁹ This should be read and acted on in addition to this guidance.
- 2.67** In discharging their duty to promote the educational achievement of looked after children the responsible authority should – as an integral part of the care plan – help to ensure that a looked after child of whatever age has the opportunities to achieve educational outcomes comparable to his/her peers. This should be done in particular by working proactively with the child’s carers and teachers to encourage the child to have the highest expectations of what s/he can achieve.
- 2.68** Strategic planning and day to day processes throughout the local authority should demonstrate robust procedures to monitor educational progress and a culture of proactive commitment to secure the highest educational outcomes for all looked after children. In particular the responsible authority should ensure through training, development and support for carers, schools and local authority staff that they understand the needs of looked after children. The local authority should also take steps to make sure that there are clear chains of accountability for the discharging of the duty which are monitored rigorously by a senior manager in the local authority, such as a virtual school head.

The importance of stability in education

- 2.69** When a child becomes looked after the responsible local authority will arrange a suitable care placement. In doing so, the child’s allocated social worker, supported by local authority management and resources, should do everything possible to minimise disruption to the child’s education. This means maximising efforts to arrange a care placement which enables existing educational provision to be maintained where this is in the best interests of the child. Subject to age and understanding, it is important to seek the child’s views about his/her education. Where a child is in Key Stage 4 (years 10 and 11) everything possible should be done to maintain the child in her/his existing school and a move should only be made in exceptional circumstances. Where it is impossible for the child to remain in his/her existing educational placement the care placement should not, except in an emergency, be made unless the education provision is made at the same time.

The personal education plan

- 2.70** The responsible local authority should make sure that every child they look after has an effective and high quality personal education plan (PEP) which forms the education component of the child’s overall care plan [regulation 5(1)(b) (ii)]. The PEP is a record of the child’s education and training. It should describe what needs to

happen for a looked after child to help him/her to fulfil his/her full potential and reflect (though does not need to duplicate) any existing education plans such as a statement of special educational needs. The local authority should work in partnership with the child, his/her school (especially the designated teacher), carers and other professionals to develop and review the PEP in order to make sure that it fully reflects the needs of the child, remains up to date and is implemented.

Initiating the PEP

- 2.71** Except where a child enters care in an emergency, the PEP should be initiated as part of the care plan before the child becomes looked after. In the case of an emergency placement the PEP should have been initiated within ten working days. The PEP should contribute to an assessment of the child'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).

The content of the PEP

- 2.72** It is vital that the PEP is not seen in isolation from other parts of the care plan. As is the case with other parts of the plan, the PEP should interrelate with other strands of the care plan, particularly those relating to health, emotional and behavioural development, identity and family and social relationships. Given that there is a greater likelihood that a looked after child will move education placements more than other children, the PEP is the core document which enables children and their social workers, carers and teachers to reach a shared and agreed understanding of what needs to be done, how, and by whom (including services and named people) to implement the plan. As the school has a key role in developing, reviewing and updating the PEP in between reviews of the overall care plan, the local authority should work especially closely with the child's school or other education setting to ensure the education institution has the most up to date plan.

- 2.73** There is a range of information which must be included in the PEP [[Schedule 1, paragraph 2](#)]:

- A chronology of the child's educational history, which provides a record of the child's educational experience and progress in terms of National Curriculum levels of attainment. It should include [[Schedule 1, paragraph 2\(1\)](#)]:
 - details of the schools and colleges attended, and the reasons for leaving;
 - an indication of the extent to which a child's education has been disrupted before entering care or accommodation;
 - information about the child's attendance and disciplinary record at each school attended; and

- information about academic progress, achievements and any special educational needs including details of any statement.
- Existing arrangements for the child's education and training, including details of any special education provision or specialist support which is put in place to promote the child's educational achievement [\[Schedule 1, paragraph 2\(2\)\]](#).
- Details of the child's leisure interests [\[Schedule 1, paragraph 2\(3\)\]](#).
- Details of the arrangements in place to minimise disruption of the child's education and training where a change in the child's educational arrangements is unavoidable [\[Schedule 1, paragraph 2\(4\)\]](#).
- A description of the role of the people who care for a child in supporting his/her educational achievements, including how they support the child to pursue leisure interests [\[Schedule 1, paragraph 2\(5\)\]](#).

2.74 Local authorities should make sure that the areas identified translate into practical actions within the PEP of an individual child. This means that the typical details which, for example, a designated teacher, or local authority officer such as the virtual school head, should expect to see in a PEP include (where relevant):

- objectives and targets which relate to educational aspirations (academic and non-academic), and leisure interests which support the child to enjoy learning and to achieve and for which s/he and his/her carers feel a sense of ownership;
- a clear education pathway for securing high quality education provision where a child is not in school or other education setting which shows how a child without a school or college place, and his/her carers, will be supported to make sure that s/he is reintegrated into an appropriate educational placement without any long delay;
- details of the support the child needs and will receive in relation to, for example, one-to-one tuition, transition and integration support where a child moves schools or other education setting; and
- a clear line of accountability which demonstrates a shared understanding and responsibility for supporting a child's education, and which shows who is responsible for supporting the child in relation to implementing each aspect of the PEP.

Review of the PEP

2.75 The PEP should be treated as a 'living document' which helps create a shared understanding about how everyone can contribute to helping the child to succeed. It should be reviewed in partnership with the child's school, carers and the child

him/herself as part of the statutory review of the wider care plan with any updated information added by the child's school feeding into that process. Issues raised by the PEP review should be considered as part of the overall case review process and incorporated into the amended care plan. More detailed information about the PEP review can be found in *Promoting the Educational Achievement of Looked After Children*.⁹

The contribution of the corporate parent to education

2.76 Different parts of the local authority should understand how they contribute to meeting the statutory duty on the authority to promote the education of looked after children and help them succeed. This includes social workers and carers, those who are responsible for school admissions, school exclusions and behaviour support programmes, special educational needs and school improvement. In particular:

- Social workers and carers should understand the arrangements for giving a looked after child priority in the school admission arrangements, as set out in the School Admissions Code and associated Regulations.¹⁰
- Officers administering admission arrangements should give maximum co-operation to social workers, in order to comply with the School Admissions Code and associated Regulations.¹⁰
- Staff in education settings should understand that permanent exclusion is a last resort and that alternative education provision must be available from the sixth day. In view of 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, IROs and others should 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 stay in the same school if they have to move to another address;

2.77 Particular efforts should be made to ensure that the education of looked after young people in school years 10 and 11 (Key Stage 4) is not disrupted as a result of a placement move, given the importance of stability while studying for GCSEs or equivalent qualifications [\[regulation 10\]](#). 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 educational

achievement by meeting the child's assessed needs and that it is consistent with the child's PEP.

Arrangements for contact

- 2.78** The interests of the majority of looked after children are best served by sustaining or creating links with their birth families including wider family members. Consideration of contact is an essential element in the planning process. 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 for contact and what is expected of the parents, the responsible authority and the child's carers in connection with those arrangements.
- 2.79** The responsible authority has a duty 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, unless it is not reasonably practicable or consistent with the child's welfare [Schedule 2, paragraph 15]. 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's parents and any other person who has parental responsibility for the child of where the child is living [Schedule 2, paragraph 15 (2)]. However, if it would prejudice the child's welfare, information need not be given [Schedule 2 paragraph 15 (4)]. Equally, a parent or other person with parental responsibility for the child must inform the local authority of his/her address [Schedule 2 paragraph 15 (2)(b)].
- 2.80** So far as is reasonably practicable, the wishes and feelings of the child (if s/he is old enough), the parents and the child's carers must be ascertained before a decision about contact arrangements is made [section 22(4)].

Who should be included

- 2.81** The assessment of the child will identify those people in the child's network with whom it is important to maintain contact. In some cases it may be appropriate to identify relatives (who may include a parent with whom contact has been lost) 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 the possibility of preserving, establishing or promoting contact which could be beneficial to the child. 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, wider relatives or friends of the child. The child and his/her carers may need support to manage these situations.

- 2.82** 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 planning for contact prior to placement wherever possible and should be provided with information about possible sources of support for contact.
- 2.83** Placements made in an emergency 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.
- 2.84** Arrangements for contact with grandparents and other people with a connection to the child should be recorded in the care plan [\[Schedule 1, paragraph 3 \(4\)\(b\)\]](#). Grandparents and other relatives can provide a sense of family history and continuity where the child cannot live with his/her birth parents yet contact may easily be lost if the child becomes looked after.

Sibling contact

- 2.85** There is 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 to be placed, so far as this is consistent with the child's welfare [\[Schedule 1, paragraph 3\(1\)\]](#). Maintaining contact with siblings is reported by children to be one of their highest priorities but it requires the active involvement of social workers and children's 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.

Different types of contact

- 2.86** 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 can help to keep family bonds alive and should be borne in mind, for example letters, telephone calls and exchange of photographs. Modern technology offers greater opportunities than ever before for separated people to maintain links and responsible authorities and the child's carers should work together to explore how electronic media can support positive relationships for children. However the child's carers and social workers should remain live to the possibility of these media being used to pursue contact which may place the child at risk of harm. Contacts, however occasional, may continue to have a value for the child even when there is no question of return to his/her family.

These contacts can keep alive for a child a sense of his/her origins and may keep open the options for family relationships to be re-established when the child is older.

Contact arrangements for a child looked after under a care order

- 2.87** Where a child is in care, specific requirements are placed on the local authority in relation to the refusal of contact, departure from the terms of an order made under section 34 and notification, variation or supervision of contact arrangements made under a section 34 order [\[section 34\]](#) [\[regulation 8\]](#).
- 2.88** The responsible authority must allow reasonable contact with a child's parents, any guardian and any other person with whom s/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 made under the inherent jurisdiction of the High Court. The powers of the court in relation to orders concerning contact are set out in sections 34(2), (3), (4), (5), (7) and (9) to (11).
- 2.89** The responsible authority is required to notify those affected about proposals to refuse contact under section 34(6) that would otherwise be required under section 34(1) or an order under section 34 [\[regulation 8\(2\)\]](#). If those arrangements are set out in a court order, there is provision 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 being of sufficient age and understanding [\[regulation 8\(4\)\]](#).
- 2.90** In these cases, notification should also be given to the child's parents (if not the person with whom the agreement has been made), his/her 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 responsible authority consider to be relevant. The IRO must also be informed.

Contact arrangements for an accommodated child

- 2.91** Arrangements for contact with an accommodated child are a matter for negotiation and agreement between the responsible authority, the child, parents and others seeking contact. The responsible authority should ensure that parents and others wishing to have contact with the child know where to seek advice about contact matters.

- 2.92** In the event of a dispute about contact with an accommodated child 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, a parent or other person.

Contact and adoption

- 2.93** On a local authority being authorised to place a child for adoption (or placing a child for adoption who is under six weeks old), any provision for contact under the 1989 Act (a section 8 or a section 34 order) ceases to have effect and the local authority must consider their responsibilities under section 26 of the 2002 Act.

The role of the IRO in improved care planning

- 2.94** Section 25B sets out the functions of IROs to improve care planning and secure better outcomes for looked after children. IROs have responsibility for monitoring the performance by the local authority of their functions in relation to a child's case, as well as specific duties in relation to the review function. There are now two clear and separate aspects to the function of the IRO:
- chairing the child's review; and
 - monitoring the child's case on an ongoing basis including whether any safeguarding issues arise.
- 2.95** The changes to the statutory framework are intended to 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 and respects the individual integrity and dignity of each child.
- 2.96** Section 25A(1) requires the local authority to appoint an IRO. The 2010 Regulations specify the circumstances in which the local authority must consult the IRO.
- 2.97** **Chapter 4** and the *IRO Handbook*¹¹ set out the IRO's responsibilities in relation to case review. The new strengthened function includes a responsibility to consult the child about his/her care plan at each review and at any time that there is a significant change to the care plan. Significant changes to care plans may only be made or proposed at the child's review and the IRO has the authority to determine when a review should be convened in the light of a change of circumstances. There are also actions that the IRO must take if the local authority is failing to comply with the 2010 Regulations or is in breach of its duties to the child in any material way, which include making a referral to the Children and Family Court Advisory and Support Service (Cafcass).

2.98 The following paragraphs set out the IRO's responsibilities in relation to monitoring the case on an ongoing basis. The IRO is well placed to assess the quality and effectiveness of local authority planning and support for children and has a crucial role to play in ensuring that the responsible authority fulfils their responsibilities as a 'corporate parent' for all looked after children.

2.99 The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's needs and that the actions and outcomes 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.

2.100 The responsibilities of the IRO include:

- ensuring that care 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 and the delivery of services;
- monitoring the activity of the local authority acting as a good corporate parent in taking all reasonable steps to ensure that care plans have given proper consideration and weight to the child's current views, wishes and feelings and that the child fully understands the implications of any changes to their care plan; and
- making sure that the child understands how an advocate could help and his/her entitlement to one.

2.101 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 their looked after children. Where these more general concerns around service delivery are identified, the IRO should immediately alert senior managers to these concerns.

2.102 The IRO is under a duty to ensure that the child has been informed of his/her right to apply, with leave, for a section 8 order, and where the child is in care, to apply for the discharge of the care order and his/her right to make a complaint. The IRO must also ensure that the child is aware of the availability of advocacy services which he or she has the right to access in relation to any aspect of his/her case [\[regulation 45\]](#).

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.

2.103 Taking into account the age and understanding of the child, the IRO should consider carefully how best to explain to each child his/her right to:

- make a complaint and how to do this;
- an advocate, including the role of the advocate; and
- apply for an order or seek discharge of an order.

2.104 These are all complex issues to explain to a child and the IRO must be able to satisfy him/herself and his/her managers that the child is aware and understands his/her rights.

2.105 IROs are required to have specific qualifications and experience in order to fulfil their statutory functions. The IRO should:

- 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 sufficient experience **[regulation 46(1)]**;
- be able to provide evidence for appointment that s/he has sufficient relevant social work experience in children's social care to undertake his/her functions **[regulation 46(2)]**;
- have the ability to communicate with children, 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 relevant National Minimum Standards (see **Annex 1**);
- have a thorough working understanding of the legal process and the issues involved when a local authority makes an application for a care order; and
- 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.

2.106 There are specific categories of persons that the local authority may not appoint to carry out the IRO function [\[regulation 46 \(3\)\]](#). These categories are:

- 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;
- the representative of the local authority appointed to visit the child;
- a person with management responsibilities for any of the above; and
- a person with control over the resources allocated to the case.

2.107 The section on 'Independence' in the *IRO Handbook*¹¹ contains further information about regulation 46.

Chapter 3. Placement

Placement under the 1989 Act

- 3.1** Sections 22A to 22D make provision for the accommodation and maintenance of a looked after child. They provide a framework within which decisions about the most appropriate way to accommodate and maintain the child must be considered. Section 22A imposes a duty on the responsible authority when a child is in their care to provide the child with accommodation. Section 22B sets out the duty of the responsible authority to maintain a looked after child in other respects apart from providing accommodation. Section 22C sets out the ways in which the looked after child is to be accommodated.
- 3.2** Section 22C(2) imposes a duty on the responsible authority to make arrangements for the child to live with a parent, a person who is not a parent but who has parental responsibility for the child, or a person who held a residence order in respect of the child prior to the making of the care order (referred to as 'parent' in this chapter), unless this is not consistent with the child's welfare or would not be reasonably practicable – section 22C(4). This rehabilitative duty reflects the principle that state intervention in family life should be kept to the minimum necessary to protect the child from harm – ultimately a child should be brought up by his/her family if that is a safe place for him/her to be.
- 3.3** Where a placement with the child's parent is not possible, the responsible authority should place the child in 'the most appropriate placement available', that is, the one that they consider will best promote and safeguard the child's welfare (section 22C(5)). The 'placement' means:
- placement with a relative, friend or other person connected with the child and who is also a local authority foster carer;
 - placement with a local authority foster carer (who is not a relative, friend or other person connected with the child);
 - placement in a children's home; and
 - placement 'in accordance with other arrangements made by the local authority' – this may include, for example, supporting young people to live independently in rented accommodation, residential employment, or in supported lodgings/ hostels.
- 3.4** In accordance with section 22C(7), in determining which is the most appropriate placement the local authority must 'give preference to' a placement with a

connected person i.e. a relative, friend or other person connected with the child, reflecting the principle that children should, wherever possible be brought up in their families and communities, if they cannot remain with their parents.

3.5 In accordance with section 22C(7) to (9), the responsible authority must ensure that, as far as reasonably practicable, the placement:

- allows the child to live near his/her home;
- does not disrupt his/her education (particularly at Key Stage 4);
- enables the child and his/her sibling to live together, if the child has a sibling who is also looked after by the local authority;
- provides accommodation which is suitable to the child's needs if the child is disabled; and
- is within the local authority's area.

3.6 Under section 22G the responsible authority must also take steps to ensure that they are able to provide sufficient accommodation within the authority's area to meet the needs of looked after children (see **paragraphs 3.177 to 3.183**).

3.7 The collective aim of these provisions is to improve outcomes for children by ensuring that they are able to safely return to their parents or, if this is not possible, have access to the most appropriate placement in which they will live with caring adults who are able to safeguard and promote their welfare.

The placement decision for an individual child

3.8 Decision-making about placements must be made in the context of the child's longer term needs for stability and permanence. For example, some children may need to be in a placement with therapeutic treatment provision before a successful permanent placement may be made. Otherwise the critical factor will be the provision of services and other support for both the child and the child's carer in the current placement.

3.9 All placement decisions are subject to the duty set out in section 22(3) that the placement is the most appropriate way to safeguard and promote the child's 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 became looked after. Abuse or neglect is the primary reason for social work involvement for nearly two thirds of children 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 will not be consistent with his/her welfare to return home if the factors which led to previous abuse have not yet been addressed and resolved. Placement decisions must therefore be underpinned by an up to date assessment of the child's needs and family circumstances.

Applying the individual criteria set out in section 22C (7) to (11)

- 3.10** Ideally all proposed placements will meet all of these criteria; however this is unlikely to be the reality and social workers, their managers, family placement workers and resource panels may find themselves faced with difficult choices and decisions. The placement criteria are important because most children benefit by being placed with relatives or friends or others connected with them; near their own homes; continuing to attend the same school; living with their siblings and in accommodation which is appropriate for any special needs. However not all these factors are always beneficial for all children; 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 must be considered, the most important of which is the need to ask how far a particular placement will meet the needs of an individual child given his/her previous history and current circumstances, including the circumstances of the family. Where it is not the optimal choice, consideration must be given to the level and type of support and services which will be provided to increase the capacity of the proposed carer to meet the child's needs.

Placements with a person connected to the child

- 3.11** A 'connected person' means an individual who is a relative (as defined in section 105, as amended by section 75 of the Civil Partnership Act 2004), friend or other person connected with the child. A person in this last category may be someone who knows the child in a more professional capacity such as a childminder, a teacher or a youth worker although these are not exclusive categories. Such people would not fit the term 'relative or friend' but nevertheless may be an appropriate person with whom to place a child because of this pre-existing connection.
- 3.12** Most children benefit from living with relatives and friends or other connected people known to the child because they are likely to provide more continuity than a placement with previously unknown carers. Such arrangements preserve a child'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 and wider family and environmental factors should be rigorously assessed before approval as local authority foster carers. Further guidance on these issues is set out in

*Statutory Guidance for Local Authorities on Family and Friends Care*¹² and the *National Minimum Standards for Fostering Services*.¹³

- 3.13** In some families, the tensions and difficulties that exist or may arise between family members may outweigh the benefits. Some relatives also live hundreds of miles from the child'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 and lose the local roots which may become a protective factor later on. It is particularly important to discuss the priorities of placement with the child concerned and take account of his/her views. A good relationship between the child, the social worker and the current carer informed by knowledge of the child's past and his/her current needs, wishes and feelings will provide a sound basis for exercising professional judgement within this framework.
- 3.14** Similar consideration should be given to balancing the requirement to place a child near his/her home against other, competing needs. Familiar surroundings are, for instance, likely to be of less importance in the long term 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 in a different environment.

Avoidance of disruption in education

- 3.15** Continuity of education is important not only to children'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. For a minority of children, however, changing school may offer the possibility of a fresh start away from previous negative relationships.
- 3.16** When placing a child, the responsible authority is under a duty to ensure, so far as reasonably practicable in all the circumstances, that the placement does not disrupt the child's education or training [section 22C(7) and (8)(b)]. This means that the responsible authority have an obligation to try to ensure that the child can continue to stay at the same school even if s/he can no longer live in the immediate neighbourhood. Again, however, there may be a need to balance against other needs where there are competing priorities for the child. It is important to discuss these issues with the child concerned and to be aware of his/her earlier educational experiences. Responsible authorities, in their corporate parenting function, can fund

transport such as a taxi 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.

- 3.17** In any case (other than where a child is in Key Stage 4, see below) where the responsible authority propose making a change to the child's placement which would disrupt the arrangements for his/her education or training, they must ensure that the arrangements for his/her education and training meet the child's needs and are consistent with his/her PEP.

Specific requirements at Key Stage 4

- 3.18** Moving a young person in the middle of a GCSE course may damage his/her chances of gaining the qualifications that s/he needs to enter further education or to get a job. Many schools now have specific requirements about gaining a particular number of GCSEs or grades in order to enter year 12 and 13 at the school. For this reason requirements are placed on the responsible authority before a decision can be made to make any change to a placement that will disrupt the education of a young person in Key Stage 4 (school years 10 and 11) [\[regulation 10\]](#). It is expected that the young person's education should not be disrupted other than as a consequence of an emergency placement.
- 3.19** A decision to change a young person's placement which would have the effect of disrupting his/her education cannot be put into effect until it has been approved at a senior level in the authority. Before approving the decision the authority must ensure that:
- the young person's wishes and feelings have been ascertained;
 - the parents' wishes and feelings have been ascertained where the young person is accommodated and (where possible and appropriate) where the young person is the subject of a care order;
 - the education provision made for the young person in the new placement will promote his/her educational achievement and is consistent with the PEP;
 - other relevant agencies and practitioners have been informed (see **paragraph 3.48**);
 - the young person's IRO has been consulted; and
 - the designated teacher at the school where the young person is a registered pupil has been consulted.

- 3.20** Where a young person will change school as a result of a placement move, the designated teacher at both the current and new schools must be consulted and the PEP amended. It should set out the arrangements which are being put in place to minimise the disruption to education, especially in relation to any arrangements for continuing with courses which lead to externally awarded qualifications.

Placements with siblings

- 3.21** Being able to live with brothers and sisters where they are also looked after is an important protective factor for many looked after children. 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.
- 3.22** A number of factors however, can militate 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 and behavioural development and age, especially where there are significant age differences. There may be practical difficulties in accommodating large sibling groups together. In some circumstances a child may have been abused by a brother or sister. An understanding of family functioning and family history, as well as listening to the wishes and feelings of children, are therefore key to informing these judgements.
- 3.23** If it is likely that brothers and sisters who are not able to be placed together at the start of a care episode will remain looked after for the medium to long term, arrangements should be made as part of each child's care plan which will enable brothers and sisters to live together, taking into account the other factors [section 22C(8)(b)]. See paragraph 2.85 for guidance on sibling contact where it is not possible for brothers and sisters to live together.

Accommodation suitable to the needs of a disabled child

- 3.24** Responsible authorities are required to ensure that the placement is such that, if the child is disabled, the accommodation provided is suitable to his/her particular needs [section 22C(8)(d)]. The needs of disabled children may be very different according to the nature of the disability, the impact of any disability on the child's functioning and individual circumstances. A thorough assessment of the child's needs, through the core assessment and any specialist assessments relating to the child's disability, must therefore be undertaken to ensure that any requirements necessary for his/her accommodation are identified and arrangements made to ensure the suitability of that accommodation.

- 3.25** Responsible authorities must work in partnership with other agencies including through the Children's Trust, particularly housing and health (including occupational therapy services), to ensure that the child's future living environment is thoroughly assessed for its suitability.
- 3.26** Foster carers provide a child with disabilities with an important opportunity to live in his/her local community rather than be placed in more traditional forms of residential care which may be some distance from home. Ordinary homes, however, may not be accessible or suitable for disabled children. Depending on the nature of the child's disability, s/he 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 to maximise his/her skills and autonomy.
- 3.27** Whether in foster care or residential care, disabled children must have access to the same facilities such as recreation, living or garden areas, as other non-disabled children in the home and this will form an important criterion as to whether the accommodation is suitable.

Placements out of the authority's area

- 3.28** A number of specified factors must be taken into account when decisions are made to place the child out of the area of the responsible authority, but still within England and Wales [\[regulations 11 and 12\]](#). The requirement to obtain approval of the nominated officer does not apply where the placement out of area is with a local authority foster parent who is either a connected person or approved as a local authority foster parent by the responsible authority [\[regulation 11\]](#).
- 3.29** As with all other decisions about a child, the responsible authority must ensure that the placement is the most appropriate placement available and that it will meet the child's needs identified in the care plan and takes account of the wishes and feelings of the child, subject to his/her age and understanding. The child's parents must also be consulted when considering the suitability of a placement of an accommodated child and where appropriate for a child who is the subject of a care order.
- 3.30** Where an out of authority placement is proposed for a child it is expected that in most circumstances the child's social worker and his/her parents, where appropriate, will accompany the child on a visit before a final decision is made. This is to ensure that the wishes and feelings of the child are informed by detailed information about the proposed placement, its location and distance from home.

- 3.31** There will be circumstances where a placement outside the area of the responsible authority will be the most suitable for the child, such as where s/he has complex treatment needs and there are local consortia arrangements in place between a number of neighbouring local authorities for such provision or where there are safeguarding concerns in relation to the child which mean a placement out of the area of the responsible authority is the most appropriate. Where a child with complex needs is being placed at some distance from the responsible authority, part of the decision-making process before final decisions are made will involve ensuring that services such as primary health care, child and adolescent mental health services (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. Where the child will require specialist health services such as CAMHS, the PCT involved in commissioning secondary healthcare in the area where the child will be living should be consulted.
- 3.32** The child's IRO must be consulted before any final decision is made to enable the IRO to discuss the proposed arrangements with the child. This discussion should in most circumstances take place after the child has visited the proposed placement.
- 3.33** A decision to place a child out of area cannot be put into effect until approved by the nominated officer. The child's social worker should draw together the information about the child's needs, wishes and feelings, the wishes and feelings of the parent (where appropriate) and details about the proposed placement in order to set out why this placement is the most appropriate placement to safeguard and promote the child's welfare.
- 3.34** Before approving a decision to place the child outside the area of the responsible authority, the nominated officer must ensure that [\[regulation 11\(1\) and \(2\)\]](#):
- the child's wishes and feelings have been ascertained;
 - the placement is the most appropriate placement for the child and will meet the child's needs set out in the care plan;
 - the parent's wishes and feelings have been ascertained where the child is provided with accommodation and (where possible and appropriate) where s/he is subject of a care order;
 - the local authority for the area in which the child is to be placed has been notified; and
 - the IRO has been consulted.
- 3.35** The responsible authority must also make sure that the appropriate persons are notified [\[regulation 13\]](#).

Emergency placements out of area

- 3.36** An emergency placement is when a placement is arranged out of hours by the emergency duty team or when it must be made immediately (on the same day) because of the breakdown of the child's current placement.
- 3.37** In such circumstances regulation 11(2) will not apply as it will not be possible to take all necessary steps before making the placement. However, as a minimum, the nominated officer must be satisfied that the child's wishes and feelings have been ascertained and that the placement is the most appropriate placement available and consistent with the care plan.
- 3.38** The remaining requirements to notify the area authority, the child's relatives and the IRO must be undertaken within five working days [regulation 11(3)]. It is essential that the IRO is contacted to avoid the child remaining in an unsuitable placement which does not meet his or her needs and causes further harm to the child and/or creates greater difficulties in bringing the child back to a more suitable placement within the area of the responsible authority or closer to home.
- 3.39** The responsible authority should ensure that they have either their own standby provision or independent providers available for emergency placements with whom they either have an existing block contract or where, as a minimum, the provision has been visited by an officer of the responsible authority within the previous six months. This will enable the responsible authority to make an informed and appropriate decision about the suitability of the placement.
- 3.40** The requirement to obtain approval of the nominated officer does not apply where the placement out of area is with a local authority foster carer who is either a connected person or approved as a local authority foster carer by the responsible authority.

Placements outside England and Wales

- 3.41** A local authority may arrange (or assist in arranging) for a child 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 [Schedule 2, paragraph 19(2)]. In the case of a child who is in care, the court's approval must be sought [Schedule 2, paragraph 19(1)]. This may only be given if the court is satisfied that:
- living there would be in the child's best interests;
 - suitable arrangements have been made for the reception and welfare of the child in the new country;

- the child has consented to living in the new country (if s/he has sufficient understanding); and
- every person who has parental responsibility for the child has consented (or their consent is dispensed with) [[Schedule 2 paragraph 19\(3\) to \(5\)](#)].

3.42 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 2010 Regulations do not apply outside England and Wales and agencies are therefore required to take steps to ensure that equivalent requirements are met where placements are made outside England and Wales [[regulation 12](#)].

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

- 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;
- a foster carer moves to a new address elsewhere in the British Islands and there are reasons in favour of continuing the placement; or
- 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.

3.44 Where it is clearly in a child'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 2002 Regulations, 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.

3.45 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 responsible 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, the objectives of the placement and implications for contact. The wishes and feelings of the child 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 is in care, parents should be involved in the decision-making process.

Placements outside the British Islands

- 3.46** 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 Airmen's 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, wishes and feelings and the parent's wishes and feelings.
- 3.47** 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's welfare and meet the requirements of the 2010 Regulations. It should be agreed only where the stay overseas is for a definite and limited period.

Notifications

- 3.48** When the decision about the most appropriate placement has been made but before the child is placed, it should be notified in writing to a range of specified people and agencies. The aim of notification primarily is to ensure that those involved in the decision-making process have an opportunity to make any necessary arrangements but will also provide an opportunity for views to be represented to the responsible authority.

Who should be notified

- 3.49** The decision should be notified in writing to the child, the parents, the child's carers, representatives of other agencies involved with the child and the IRO about the placement [\[regulation 13\(2\) \(a\)\(b\)\(e\) to \(i\)\]](#).
- 3.50** The responsible authority should also consider notifying any other person with a sufficient interest in the child for example a person involved in the child's life but not specified in regulation 13. Note should be taken of the provision [\[regulation 13\(3\)\]](#) that in some circumstances the responsible authority may decide not to provide information to all or any of the persons specified in regulation 13 if, as a result of doing so the child would suffer or be likely to suffer significant harm.

3.51 Notification must also be made to any person who has a contact order with a child whether under section 34 or section 8 **[regulation 13(2)(b) and (c)]**. Good practice requires that the responsible authority's social worker explains personally to the child, the child's parents and the child's carers what the placement 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. Where a child's or parent's first language is not English, an interpreter may be required. Sensory impaired children and adults may require the formal written notification to be in a specific format.

3.52 Other agencies involved with the child are **[regulation 13(2)(f) to (h)]**:

- the PCT (or local health board in the case of a child living in Wales);
- the registered medical practitioner (GP); and
- any education institution attended by the child (which will include early years provision, school, college or pupil referral unit).

3.53 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 email boxes for notifications across local authorities and PCTs which do not require a named person in the address.

Content of the notification

3.54 The written notification of the arrangements for the placement should contain 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 placement plan;
- the role of the child's parent on a day to day basis;
- arrangements for enabling the child to return to live with his/her parent; and
- contingency arrangements if the placement is unsuccessful.

3.55 In the case of an accommodated child, the notification should also set out the agreed arrangements for the ending of the placement. The explanation given by the responsible social worker to the parents and the child will supplement this. In exceptional circumstances where a child 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 in the circumstances when the responsible authority has reasonable cause to believe that informing a person would put the child at risk of significant harm. Where it is necessary to take this exceptional decision in order to safeguard a child, 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 representations procedure which each local authority is required to have [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.

- 3.56** The area authority should maintain a list of all the notifications of looked after children placed in the area of the authority in order to be able to fulfil its statutory functions under the 1989 Act.

Termination of placements by the responsible authority

- 3.57** When the responsible authority proposes to terminate a placement they must carry out a review of the child's case and ensure that the views of all the people concerned have been heard, including the child (sufficient to his/her age and understanding) as well as parents (where appropriate), the child's carer and other people who were notified when the placement was made [regulation 14]. Certain conditions apply which are explained in the following paragraphs.
- 3.58** Regulation 14 does not apply where the foster carer or registered manager of the children's home decide that they are no longer able to continue with the placement of a child, or where a parent of an accommodated child wishes the child to be returned to their care. If there is not time to conduct a review before the child is returned to the parent consideration should be given to conducting a child in need review after the child returns home. Unless the regulations specified in 14(5) apply, the responsible authority may only terminate the placement following a review of the child's case in accordance with the 2010 Regulations [Part 6].
- 3.59** The review will provide the opportunity to consider what, if any, support and services could be provided which would avoid the need to terminate 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 terminate the current placement.
- 3.60** The responsible authority is required to make other arrangements for the child's placement before terminating the current placement, in accordance with their responsibilities under section 22C [regulation 14(2)(a)].

- 3.61** Where the responsible authority considers that there is an immediate risk of significant harm to the child or to protect others from serious injury, the child must be removed from the placement and the requirements set out in regulation 14(2) do not need to be met. Alternative accommodation must be found as soon as possible and the IRO informed as soon as is practicable. Notifications must be made within ten working days of the termination of the placement.

Provision for different types of placement

- 3.62** The 2010 Regulations impose specific requirements [\[Part 4\]](#) on the responsible authority in relation to the following types of placement which may be made under section 22C.* These are:

- arrangements for a child subject to a care order to be placed with parents in accordance with section 22C(2);
- placement with local authority foster carer, specifically:
 - the conditions which must be complied with before placing a child with a local authority foster carer;
 - placements made with a local authority foster carer in an emergency; and
 - provision enabling the temporary approval of a connected person (which means a relative, friend or other person connected with the child) so that placement may be made before the connected person has been approved as a local authority foster carer in accordance with the 2002 Regulations; and
- general duties of the responsible authority when placing the child in an unregulated setting under section 22C(6)(d).

Placement of a child in care with parents

- 3.63** The 2010 Regulations set out the requirements to be followed when a child subject to a care order is being placed back with a parent [\[Part 4, regulations 15 to 20\]](#).

- 3.64** In some circumstances a child may have remained at home pending court proceedings and remain there after the granting of an interim 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 at short notice. However, under the

* Placement is defined in regulation 2(1)9 of the 2010 Regulations as arrangements made by the responsible authority for the child to live with his parents in accordance with section 22C(2) or arrangements made by the responsible authority to provide for the child's accommodation and maintenance by any of the means specified in section 22C(b).

2010 Regulations a child on an interim care order is allowed to remain with the parent pending a final hearing [\[regulation 15 \(2\)\]](#).

- 3.65** The responsible authority may not place a child back with a parent under the 2010 Regulations if to do so would be incompatible with any order made by the court under section 34.
- 3.66** A child who is looked after by a local authority but is not in their care is outside the scope of regulations 15 to 20 because s/he is accommodated by agreement with the parents and if the period of accommodation ends by virtue of the child returning to parents, the child ceases to be looked after by the responsible authority.
- 3.67** Responsible authorities should consider carefully whether a placement in accordance with the 2010 Regulations is the most appropriate way to discharge their responsibilities under section 22C(2). Where it is decided that such a placement is the most appropriate way to discharge their duty under section 22, the responsible authority should reconsider whether the care order is still required. It may be that the responsible authority and the parent agree that an application to discharge the care order is appropriate. But such an agreement must include both the level of support and supervision by the responsible authority and co-operation 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 the child will no longer be looked after and the 2010 Regulations will not apply.
- 3.68** In many cases a placement in accordance with these regulations will be part of the planned progress towards discharge of the care order. The management of the placement should aim to enhance the parent's role and support the family relationships 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.
- 3.69** These placements will be subject to the requirement for a placement plan [\[regulation 9\]](#) and the case is required to be reviewed in accordance with the 2010 Regulations [\[Part 6\]](#).

The assessment of parents' suitability to care for the child

- 3.70** 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, or likely to be given, to him/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 can be placed back with parents.

Parenting capacity

- 3.71** Before deciding to place the child with his/her parent the responsible authority must assess the suitability of the parent to care for the child [regulation 17], taking into account the suitability of the proposed accommodation and of other people in that accommodation [regulation 17(a)(i) and (ii)]. The matters to be taken into account when assessing the suitability of the parent to care for the child are set out in the 2010 Regulations and use the framework of the core assessment [Schedule 3]. More detailed guidance is set out in the Assessment Framework.⁵
- 3.72** Factors to be given particular weight in assessing the parenting capacity of the parent include their physical, mental and emotional health and their age. It is known 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 impact on the parent's capacity to meet the particular needs of the individual child 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 while s/he is looked after away from home but particularly where there is a plan for a return home.
- 3.73** The assessment should include any available information about the parent's previous experiences of looking after children. Where the parent has other children 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.
- 3.74** Many children who are placed back home with parents are returning to a household where there may be a new parental partner and children. The assessment must take account of parental and family history and wider family functioning of the new partner as well as the relationship between the child and the new partner.
- 3.75** A formal assessment of suitability should be undertaken for all members of the household who are aged 18 or over. While it is only possible to obtain Criminal Records Bureau (CRB) checks on young people over the age of 18, the assessment

should address the history and current lifestyle of the other young people in the household who are under 18. 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 who may provide care to the child and other adults such as grandparents.

3.76 The 2010 Regulations require a decision to place the child back with a parent to be approved by a nominated officer of the responsible authority before it is put into effect [\[regulation 18\]](#). Before granting this approval the nominated officer must be satisfied that:

- that the child's wishes and feelings have been ascertained;
- the assessment as to the suitability of the parent has been carried out [\[regulation 17\]](#);
- the placement will safeguard and promote the child's welfare; and
- the IRO has been consulted.

Immediate placements with parents

3.77 In some cases, the responsible authority will consider that it is in the best interest of the child to make a placement back with the child's parents before the assessment under regulation 17 is complete [\[regulation 19\]](#). For example, in the case of an unforeseen breakdown of a foster placement requiring the child's immediate removal and where the permanence plan is for the child to return to his/her parent, the least traumatic move for the child may be to place him/her back with a parent rather than in another short term placement. It is not expected, however, that placements in accordance with regulation 19 will happen frequently.

3.78 When a placement under regulation 19 is proposed, the following checks must be carried out before the placement which must be approved by a nominated officer of the responsible authority:

- An interview should be held 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 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.
- The assessment of the parent in accordance with regulation 17 and a review of the child's case must be undertaken within ten working days of the child being allowed to live with the parent. This will enable early identification of any

difficulties, including whether any adults in the household have a relevant conviction or caution or there are 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.

- Within ten working 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 19 (i.e. 20 working days from the date the child goes to live with the parent).
- If the child is to remain with the parent, the placement plan will need to be reviewed. As much of the placement plan as possible should be developed and shared with the parents when the child goes to live with them. If the placement is subsequently confirmed, the placement plan must be reviewed and, if necessary, amended [\[regulation 19\(c\)\(i\)\]](#). If the decision is not to confirm the placement, it must be terminated [\[regulation 19 \(c\)\(ii\)\]](#).

Support and services

- 3.79** Following the assessment of the parent's capacity to meet the child's needs, the responsible authority must identify and 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 [\[regulation 20\]](#). The effectiveness of these services and any other support in addressing the needs of the child, parenting capacity and wider family and environmental factors will be considered as part of the review of the child's case.

Placements with local authority foster carers

- 3.80** The duties set out in section 22 of the 1989 Act apply to all decisions by local authorities in relation to a looked after child who is placed with foster carers. If a child cannot be returned home to live with a parent then the responsible authority must place the child in the most appropriate placement available. Section 22C(5) and (6)(a) and (b) require authorities to be satisfied that placement with foster carers is the best way of meeting their duty under section 22 towards a looked after child 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 ensuring that all the assessed needs of the child can be met. There are often practical limitations on choice which may mean that the ideal placement may not be available. The statutory guidance to support the sufficiency duty¹⁴ sets out a standard for commissioning looked after children's services to improve the quality and choice of placements and minimise the likelihood of suitable placements not being available in the local area.

- 3.81** 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. It will also enable more choice of foster homes and opportunities for introductory visits. 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. This requires an approach to and understanding of care as part of the continuum of family support services rather than something to be avoided at all costs.
- 3.82** The responsible authority must comply with a range of conditions [\[regulation 22\]](#) 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 at **paragraph 3.83**);
 - 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 2002 Regulations.
- 3.83** The conditions require that the fostering service provider by whom the foster carer is approved and any other local authority which currently has a child placed with the foster carer consent to the proposed placement and the requirements of regulation 28 of the 2002 Regulations are complied with.

Emergency placement with a local authority foster carer

- 3.84** There will, however be occasions where a child must be placed in an emergency. Where the responsible authority have to place the child in an emergency, the 2010 Regulations provide they may place the child with any local authority foster carer who has been approved in accordance with the 2002 Regulations for a period no longer than six working days, even if the terms of that approval are not consistent with the placement [\[regulation 23\(1\)\]](#). When the period of six working days expires, the placement must be terminated in accordance with regulation 23(2) unless the foster carer's terms of approval have been amended so that they are consistent with the placement.
- 3.85** These powers to make emergency placements with local authority foster carers are intended to be used exceptionally in unforeseen circumstances and are not

intended to be used in situations where appropriate contingency plans could have been made. Foster carer assessments are designed to identify the ages, 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, often if there is a foster child already in the household. 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 in the context of the needs of other children in the household.

Temporary approval of a connected person

- 3.86** There will be circumstances where the most appropriate placement for a looked after child is with a connected person in accordance with section 22C(6)(a) and (7)(a). The responsible authority must give preference to a placement with a connected person who is approved as a local authority foster carer, if that is the most appropriate placement. If the need for a placement with a connected person is such that 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, the 2010 Regulations set out the arrangements for the temporary approval of a connected person [regulations 24 and 25]. 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 [section 22].
- 3.87** Subject to the successful completion of the assessment to temporarily approve a connected person [regulation 24(1)], they 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.
- 3.88** The 2010 Regulations set out the circumstances in which, exceptionally, the period of temporary approval may be extended [regulation 25]. These circumstances are either where the approval process has taken longer than anticipated (in these circumstances the temporary approval may be extended for a further eight 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. When these time periods expire and if 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 placement with the connected person [regulation 25(6)].

- 3.89** These provisions in the 2010 Regulations are intended to be used exceptionally and where there are clearly identified reasons why the full assessment process as required by regulations 27 and 28 of the 2002 Regulations cannot be undertaken before a placement is made. If a child is placed before the full approval of the carer as a local authority foster carer, there is a possibility that the connected person may not be approved at the end of the assessment process. The risk of a child being moved from a placement in which s/he has become settled must be minimised by careful consideration of the appropriateness of a placement before full approval. In some circumstances it may be preferable to use a short term placement with an alternative foster carer which includes appropriate contact between the child and the prospective carer pending the completion of the full foster carer approval process.
- 3.90** The child's wishes and feelings about the proposed arrangements must be ascertained, subject to understanding, and recorded. Wherever possible, an opportunity must be 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 before a decision is made.
- 3.91** The 2010 Regulations specify the assessment requirements before the child may be placed under these temporary approval arrangements [\[regulation 25\(a\) 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 the existing relationship between the child and the proposed carer as the intention of this provision is that the connected person is already known to the child.
- 3.92** The home must be visited by the social worker as part of the assessment of 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.
- 3.93** The home visit will also provide the opportunity to identify more clearly the composition of the household and the nature and quality of the relationships between the residents, as well as their view about the proposed arrangements for the connected person to care for the child. The assessment of suitability should also address the history and current lifestyle of other young people in the household who are under 18 in relation to the needs of the child who is to be placed, including their views about the proposed placement and its possible impact on them. Further

guidance on the assessment of relatives and friends and other connected people as foster carers is set out in the statutory guidance on family and friends care.¹²

- 3.94** As the connected person will be temporarily approved as a foster carer s/he will be required to comply with the 2002 Regulations and sign a foster care agreement and the requirement for a care plan and placement plan remains. A connected person approved under these regulations will be entitled to the same support and services, including any fees and allowances payable/available within the relevant fostering provider/local authority scheme to unrelated local authority foster carers.
- 3.95** The visiting requirements in relation to the placement of a looked after child with temporarily approved foster carers are more frequent than for placements where the approval processes for the foster carer have been completed. Frequent visits will enable the child's social worker to assess the quality of the child's experience in the placement and how the relationship with the carer and other members of the household is developing. In particular, the social worker should consider whether any additional supports and services are required to ensure that the placement continues to meet the child's needs. Where there are concerns that, in spite of the provision of appropriate support, it is evident the placement is not the most suitable way to discharge their section 22 duty the responsible authority may terminate the placement before completion of the assessment process.

Placement in residential care

- 3.96** Residential care should be considered as a potential placement option alongside other placements. It is most likely to be suitable for an older child and a thorough assessment of the child's needs which includes ascertaining his/her wishes and feelings will identify those children for whom this will be the best choice. The full range of placement options should be considered in relation to the child's needs and desired outcomes.
- 3.97** Residential care placements vary greatly in terms of the type of service they provide. It is therefore important to secure the right residential placement to meet the identified needs of the child. Local authorities should ensure they have a range of residential placements available to allow placements to be matched to each child's individual needs and these needs and placement options should be considered in advance of a placement being made to allow full consideration of the suitability of each option including the opportunity for a visit as part of the decision-making process.
- 3.98** Before making a placement in residential care, it is essential to fully understand exactly what that service offers and how the provider intends to care for the child. This should be agreed with the provider prior to the placement being made. The

provider should be able to provide robust evidence that supports the appropriateness and effectiveness of any therapeutic approach or model of care they intend to use. The responsible authority should ensure that they fully understand the approaches being used in the residential accommodation and the supporting evidence being provided. This understanding of the provider's approach should inform the child's placement plan, which should be drawn up in conjunction with the provider. The child's review will consider whether the care is being provided in line with the agreed approach and whether this approach continues to be appropriate for the child.

- 3.99** Prior to the placement local authorities should always provide all information about the child that is necessary to allow the provider to provide appropriate care to that child and to meet the requirements of any relevant children's homes legislation. This information should be reflected in the placement plan.

Emergency placements in residential care

- 3.100** Good forward planning should mean that placements made in emergency are rarely needed. However, where they are unavoidable local authorities should still seek placements that meet the needs of the child as far as possible. When emergency placements are made, local authorities should endeavour to make as much of the necessary information about the child available to the home as is possible and should always make available any information that is vital to allow the home to care safely for the child (e.g. medical information or information about any known serious behavioural issues which may place the child at risk of harm to him/herself or others).

Placement of a looked after child in 'other arrangements'

- 3.101** The assessment of the child's needs to inform his/her care or pathway plan may conclude that for some children, these needs will be best met by a placement in 'other arrangements' [\[regulation 28\]](#).
- 3.102** These placements will 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 responsible 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 him/her opportunities to take on more responsibility for his/her own care, in order to prepare for the move to more independent accommodation when s/he reaches legal adulthood. In this case, the responsible authority will have to ensure that the carers have the necessary competences so that the support provided by the placement enables the young

person to develop the skills s/he will need to make a positive transition to greater independence in the future.

3.103 Some unregulated settings may provide suitable placements for looked after children, such as:

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

3.104 In every case, before making the placement the local authority must establish that the accommodation is suitable. Suitable accommodation is accommodation:

- which, so far as reasonably practicable, is suitable for the child in light of his/her needs, including his/her health needs;
- in respect of which the responsible authority has satisfied itself as to the character and suitability of the landlord or other provider;
- which complies with health and safety requirements related to rented accommodation; and
- in respect of which the responsible authority has, so far as reasonably practicable, taken into account the child's:
 - wishes and feelings; and
 - education, training or employment needs.

3.105 The 2010 Regulations set out factors that must be considered in determining whether accommodation is suitable for individual care leavers [\[Schedule 6\]](#). These are set out below.

Facilities and services provided

3.106 Consideration of facilities and services will be particularly relevant where the young person is not placed in a domestic setting (i.e. with a host family as part of a supported lodgings arrangement or where s/he chooses to live with family or friends) but is placed in accommodation where s/he is independent or sharing

the occupancy. The responsible authority will need to take the following issues into account:

- the space available in the property:
 - where the property is shared with others the young person must have his/her own lockable room allowing him/her privacy
 - where the young person is in education or training the property should offer study space, in his/her own room or elsewhere;
- the bathing and toilet facilities, which must be sufficient for the number of occupants in the property;
- whether the state of repair of the furniture is adequate where the property is already furnished prior to the young person moving in; and
- the adequacy of the heating and hot water.

State of repair

3.107 The property must be 'habitable' – i.e. structurally sound, free from damp and in an adequate state of repair. In addition, the household appliances must be useable and fit for purpose. The young person should be fully informed about who is responsible for repairs and maintenance to the property, fittings and fixtures and of what to do and who to contact in an emergency, for example a water leak or if the heating breaks down.

Safety

3.108 The responsible authority will need to check, as far as reasonably practicable, that:

- the landlord possesses a current up to date gas safety certificate, that any fire detection equipment works and that if there was a fire, the property could be evacuated safely.;
- the electrical wiring has been checked within the last five years, and any electrical appliances in the property must be safe; and
- the accommodation is secure (e.g. is there a burglar alarm; locks on windows; mortice locks) and the local authority knows whether the previous tenant has returned all their keys or that the locks have been changed.

3.109 The landlord should have all the necessary buildings and liability insurance cover for the accommodation.

Location

- 3.110** There should be adequate transport links between the property and the young person's place of education, training or employment and the accommodation should be reasonably accessible to people in the young person's personal support network, health and leisure services and other amenities.
- 3.111** The area where the property is located should be thought to be generally safe at night. Where the assessment of the property's suitability for the individual young person suggests that there are concerns about the safety of the area where the property is situated, it will be even more important to ensure that the accommodation is secure.

Support

- 3.112** Where the young person is placed in accommodation that comes with housing related support, then the support to be provided must contribute to responding to his/her assessed needs. Similarly, where the young person is placed in 'supported lodgings', the support to be provided must be carefully matched to his/her needs. The responsible authority should establish how the accommodation provider has been selected, assessed and trained; and how they are supervised. It will be important that the suitability of accommodation providers is kept under regular review.
- 3.113** The responsible authority will need to take steps to be satisfied that the assessment and selection process has involved proper independent scrutiny, involving safeguarding checks and checks on the provider's financial viability, to establish that the provider has the necessary skills and competences to respond to the needs of the young person in order to achieve the goals agreed as part of his/her care plan.

Tenancy status

- 3.114** Where young people are occupying the accommodation as tenant in their own name then the authority should take steps to ensure that the young person understands his/her rights and responsibilities under the tenancy agreement and, where there is uncertainty, make sure that the young person has access to independent advice.

The financial commitments involved for the young person and their affordability

- 3.115** At the commencement of any tenancy the responsible authority must establish that the accommodation is affordable for the young person on the income available to him/her and there is clarity about the services that all charges are intended to cover. At the time that the young person moves in, arrangements should be in place for funding rent, any service charges, utilities and other tenancy costs.
- 3.116** Other costs linked to the location of the property, for example transport costs to the young person's place of education and/or work, should be taken into account.
- 3.117** The responsible authority will need to establish that the young person understands the nature of the funding arrangements and his/her responsibilities for contributing to the costs of rent, utilities and other tenancy costs. Arrangements should be agreed between the authority and the young person about whether the contents of the accommodation should be insured and how premiums will be covered.
- 3.118** If the young person is expected to be able to remain in the property after s/he reaches the age of 18, consideration should also be given to these elements of affordability in the light of the young person's likely financial situation once s/he is no longer maintained by the local authority. This may involve liaising with the local housing benefit department regarding the levels of housing benefit or local housing allowance likely to be available if the young person needs help with paying his/her rent.
- 3.119** The responsible authority must establish the young person's views about the suitability of any accommodation [\[Schedule 6, paragraph \(2\)\]](#). Young people should be familiar with how their needs have been assessed and how this assessment has informed the provision of services and support set out in their care and pathway plan. Discussions between the young person and his/her social worker about this extremely important issue must make sure that the young person appreciates the implications of his/her tenancy and recognises what is expected of them. S/he must be offered sufficient information, support and advice so that s/he understands any financial commitments and expectations that fall to him/her. The responsible authority must make sure that the young person knows what s/he should do if his/her financial circumstances change or if there is an increase in the costs of the accommodation. This essential information must be recorded in the young person's pathway plan.
- 3.120** The factors outlined above are not intended to limit choice for young people who wish to and are ready to move to more independent accommodation as part of preparing them for the transition to adult responsibilities. However, these factors outline the issues that will need to be considered at both a strategic and an

individual level whenever commissioning unregulated accommodation for this group. Attention to these factors will assist authorities to be responsible corporate parents by ensuring that whenever children are placed in 'other arrangements' they can be provided with the necessary stability and support.

- 3.121** The primary issue to be addressed in making a 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.
- 3.122** 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 young person's care plan. Such a move should only take place following careful planning that will have been scrutinised at the young person's review meeting, chaired by his/her personal IRO.
- 3.123** The review must establish that a pathway plan is in place. The plan must indicate how it is intended that the proposed move will meet the young person's needs – e.g. that the support to be provided is adequate and will help to develop his/her personal skills. The review too must be satisfied that the young person has been properly prepared and will be able to manage in new accommodation. It should be routine practice that the young person will have visited any proposed new accommodation so that s/he is able to take an informed view about its suitability. The move should maintain as much stability as possible and, in particular, enable the young person to pursue his/her 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 young person's needs as set out in the proposed plan. As at every other review, the young person 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 young person's future needs and aspirations.
- 3.124** Regulation 12(3)(c) requires that, where a young person is placed in 'other arrangements', then the local authority must make a placement plan involving the young person and the person responsible for supporting him/her in the accommodation. This should be the person who will have the most day to day contact with the young person, for example their 'key worker' or supported lodgings host/carer. Any support plan setting out how the supported accommodation service will support the young person should be integral to the placement plan and avoid duplication.
- 3.125** The placement planning process should involve an exchange of all the necessary information included as part of the young person's pathway plan, so that the

accommodation provider has a full understanding of the young person's needs and their role in responding to these.

3.126 Schedule 3 sets out all the matters which 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.

3.127 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

The purpose of the placement plan

3.128 The placement plan provides clarity for the child and the child's carer (whether a parent, a foster carer, registered provider as the person responsible for the child at the accommodation) about how the day to day parenting tasks will be shared between the child's carer and the responsible authority, including clarity about the financial arrangements for the child's upbringing.

3.129 The responsible authority is required to draw up a placement plan before the child is placed [\[regulation 9\]](#). The placement plan sets 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 Regulations and now forms part of the overarching care plan.

- 3.130** An effective placement plan will ensure that the carer receives essential information about the child, including his/her health, educational and emotional and behavioural needs, how these may affect the child day to day and appropriate strategies for responding to them. In particular, it is important to identify any behaviours which have been of concern to a child's previous carer and which have contributed to the breakdown of a previous placement.
- 3.131** The purpose is not to label children but to ensure, first, 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 in which s/he 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 his/her carer receive appropriate help and treatment, if necessary, for the child.
- 3.132** Clarity and specificity in the placement plan will ensure that the carer understands the child's likes, dislikes and routines, and reduce the potential for 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 managers. Lack of clarity about who does what can lead to role confusion and placement breakdown.

Timescales for making the placement plan

- 3.133** Where it is not possible to draw up a placement plan in advance of the placement, a placement plan must be made within five working days of the start of the placement [regulation 9(2)]. In any event essential information for providing safe care to the child must be available to the carer at the start of the placement. It is possible that the placement plan will be drawn up before the completion of the full care plan to ensure that appropriate information is shared and contacts given in a timely manner to support the child and the carer in the placement.

Information the carer needs in order to look after the child

- 3.134** The 2010 Regulations set out the information which must be provided in the placement plan [regulation 9 and Schedule 2]. The carer will need to know about the child's family, his/her race, religion and culture, the language spoken at home and any disabilities or other special needs. The carer 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, the carer needs to know what the long term plan is for the child and its timeframe, what the objectives are for the specific placement being offered and how these fit within the care plan. The carer should be given a copy of the care plan when it is completed and be clear about his/her role in implementing it. Within the context of the care

plan the carer needs a realistic estimate of how long the placement is expected to last.

- 3.135** 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 bedtimes, mealtimes and so on, which can be passed on to carers.
- 3.136** 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's IRO, independent visitor and, if applicable, the child's 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.
- 3.137** 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 carer whether there are any particular needs arising from the placement such as bedding, bedroom furniture, equipment, or clothes, particularly 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 [\[section 22C\(8\)\(d\)\]](#).
- 3.138** Responsible 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/her parents, not the foster carer. Failure to clarify financial arrangements or to reimburse carers for necessary expenditure can jeopardise the relationship between the carer and the responsible authority.

Day to day arrangements

- 3.139** The responsible authority is required to set out a range of specific information in the placement plan [\[regulation 9 and Schedule 2 paragraphs \(1\) to \(8\)\]](#). This concerns the child's health and education, contact arrangements, visits by the responsible

authority and any arrangements for visits by an independent visitor. The child's carer needs to know what their role will be in safeguarding and promoting the child's welfare across each of the seven dimensions of the child's developmental needs (see **Figure 1** and **Annex 3**). They need to know the content of the child's health plan and PEP 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. The child's 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.

- 3.140** The child's carers should be aware of the child'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 s/he may have needs for a spiritual dimension to his/her life and should be supported and encouraged to develop it. These experiences contribute to the child's sense of identity. Even in good placements 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 his/her 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.
- 3.141** Arrangements for contact between children, birth parents, siblings who are looked after and other relatives and friends must be clarified and discussed with carers. The child's 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 if the child is subject to a care order, be given a copy of any orders made under section 34. If the child has been authorised to be placed for adoption, section 26 of the 2002 Act applies.
- 3.142** While there is an expectation that the child's 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 as well as those of parents.

Shared responsibilities and consents

- 3.143** In the case of an accommodated child placed with a foster carer or in a registered children's home, the placement agreement must identify how responsibilities will be shared between parents, and the responsible authority. Under the 2010 Regulations the placement plan must set out the respective responsibilities of the responsible authority and the child's parents and any arrangements for delegation to the responsible authority from the child's parents [\[regulation 9 and Schedule 2, paragraph 3\(a\) and \(b\)\]](#). 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 in the context of the needs of the child.
- 3.144** 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 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. 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.
- 3.145** Regardless of the legal status of the child, 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 his/her ears pierced or changing his/her hairstyle.
- 3.146** Likely areas for confusion should be clarified in advance and decisions recorded. These include who should attend school parent evenings (any or all of the parent, the child's carer or the social worker) and the circumstances in 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 responsible authority [\[regulation 9 and Schedule 2, paragraph 3 \(4\)\]](#). Looked after children find restrictions on overnight stays with 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.
- 3.147** In the case of an accommodated child, the plan should set out 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 return to live with a parent [\[Schedule 2, paragraph 3\(3\)\(c\)\]](#). 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.

3.148 The placement plan must record the circumstances where a young person is over 16 and agrees to be provided with accommodation under section 20 [Schedule 2, paragraph (3)(d)].

Placement plans for placements back with parents

3.149 Additional information must be provided where arrangements are made to place the child with his/her parents in accordance with regulations 15 to 21 [Schedule 2 paragraph 2]. 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 obligation of the parent to notify the responsible authority of any relevant change in circumstances;
- the obligation of the parent to keep the information provided about the child and family or other person confidential;
- 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; and
- circumstances in which the placement will be terminated under regulation 19 (c) (ii).

Placement planning in short breaks

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

3.151 Schedule 3 sets out all the issues that must be included in a placement plan. Where children are placed in short breaks, it will be essential that the short break provider understands 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, the child's social worker, his/her IRO and other staff employed or commissioned by the authority to contribute to the plan for the child's care.

3.152 The plan must include:

- the respective safeguarding responsibilities of the provider and local authority;
- the frequency of visits the child can expect from his/her 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).

Information sharing

3.153 The social worker should discuss with the parents, any other previous carers and with children (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 provisions, but authorities should make sure that the emergency or temporarily approved foster carer has sufficient information, including health information, to keep the child and other people in the household safe. All parties should be aware that if the child's carers are to work in partnership with 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.

3.154 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.

Visits to looked after children

3.155 As part of their arrangements for supervising the child's welfare the responsible authority has a duty to appoint a representative to visit the child wherever he or she is living [regulations 28 to 31]. Visits form part of a broader framework for supervising the child's placement and ensuring that his/her welfare continues to be safeguarded and promoted. Visits therefore have a number of purposes, including to:

- support the development of a good relationship between the child and the social worker which will enable the child to share his/her experiences, both positive and negative, within the placement;
- provide an opportunity to talk to the child and to offer reassurance if s/he feels isolated and vulnerable while away from family and friends;
- evaluate and monitor the achievement of actions and outcomes identified in the care and placement plan and to contribute to the review of the plan;
- identify any difficulties which the child or carer may be experiencing, to provide advice on appropriately responding to the child's behaviour and identify where additional supports and services are needed; and
- monitor contact arrangements, to identify how the child is responding to them and to identify any additional supports carers may need to support positive contact arrangements.

3.156 The 2010 Regulations set out the minimum visiting requirements and must be understood in the broader context of the purpose of the visits. The duties placed on the responsible authority by the 2010 Regulations will be best met if the visits are undertaken by the child's allocated social worker, other than in exceptional circumstances.

Frequency of visits

3.157 Visiting requirements differ according to the type of placement [regulation 28].

3.158 Unless paragraphs 3.159 to 3.161 below apply, the child should 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 [regulation 28(2)(a)]. Thereafter, the child must be visited at intervals of not more than six weeks for the first year of any placement [regulation 28(2)(b)]. Visits during subsequent years must also take place at intervals

of not more than six weeks [regulation 28(2)(c)(ii)] unless the placement has been formally agreed as a permanent placement which is intended to last until the child is 18; in those circumstances, the intervals between visits in the second and subsequent years of placement must not be longer than three months [regulation 28(2)(c)(i)]. However, 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 carer regardless of the status of the placement.

Placements with a temporarily approved foster carer or a child living with parents under an interim care order

3.159 Where a child is placed under regulation 24, or where an interim care order has been made in respect of that child under section 38 of the 1989 Act, and the child is still living with the parent, the child must be visited at least weekly until the time of the first review. Subsequently, visits must take place at intervals of not more than four weeks until the carer is approved under the 2002 Regulations or the final hearing has been completed in care proceedings. These frequencies reflect 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 or where the child continues to live with a parent in circumstances where the responsible authority has concerns about a possible continuing risk of the child suffering significant harm. 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.

A child placed back with parents

3.160 Where a care order has been made in relation to a child under section 31 of the 1989 Act and the child is placed back home with parents under regulation 18, the child must be visited within one week of the making of the care order and then at intervals of no more than six weeks [regulation 28 (5)(a) and (b)]. A child placed back home with parents before the assessment is completed (under regulation 19) must be visited at least weekly until the time of the first review and subsequently at intervals of not more than six weeks or until the completion of the assessment under regulation 17.

A child in care where accommodation is not provided by the responsible authority

3.161 Where the child is in care but is in living arrangements made by another person, such as a sentenced child in secure accommodation or a young offender institution, s/he must be visited within one week of the start of the living arrangements and

within one week of any change to those living arrangements. Subsequently, visits must take place every six weeks for the first year and at intervals of not more than three months in any subsequent year [\[regulation 28\(6\)\]](#).

Additional visiting requirements

- 3.162** The responsible authority must also ensure that the social worker visits the child outside the statutory minimum intervals set out above when reasonably requested to do so by the child, the child's carer or the person responsible for the child's living arrangements [\[regulation 28 \(7\)\(a\)\]](#).
- 3.163** A visit must also be made within one week of receiving a notification under section 30A of the Care Standards Act 2000 when the children's home in which the child is currently placed is referred to in that notification [\[regulation 28 \(7\)\(b\)\]](#).
- 3.164** Visits should not be neglected because a placement is going well. The ongoing review of the care plan requires that visits take place at least as often as the 2010 Regulations require. This helps to ensure the social worker is equipped to identify and help with any difficulties because care has been taken to establish a relationship with a child and foster carer, and it helps to assess long term situations fully. 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 carer supervising social worker has not been allocated. There will inevitably be periods in any placement when a child's carer or the placement may be under particular stress.
- 3.165** 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.

Seeing the child

- 3.166** The representative must see and speak to the child alone [\[regulation 29\]](#). The exceptions to this are: where the child refuses (and is of sufficient age and understanding to refuse); where the social worker considers it inappropriate to do so (having regard to the child's age and understanding); and where the social worker is unable to do so, for example because the child is out. If a child has particular communication difficulties or requires specialist communication support, the social worker will need to use specialist resources in order to ensure that the child has the opportunity to express his/her wishes and feelings, including a request for the social worker to visit. The care plan and the placement plan for the child should identify where this is a consideration from the outset.

- 3.167** A very young child or a child who has been abused may be anxious about spending time alone with a person s/he does not know well. Visiting a child more frequently when s/he first starts 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 his/her life, 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.
- 3.168** An important aspect of visiting is to provide a measure of child protection. 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 where the child is living. A child's carer who is presenting a 'brave face' would not alert a social worker to his/her 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.

Reports of the visits

- 3.169** The content and outcome of each visit to a looked after child should be carefully recorded within the individual case record in a way which enables a continuing assessment of the progress of the child in the placement to be made, even where there is a change of social worker. The record should set out the main issues that were raised during the visit, any issues of concern and how these will be addressed and an overall conclusion.
- 3.170** It is expected that information from the visit will be shared appropriately with parents and the child's carers and others who may need to know. The social worker should discuss with the child, subject to his/her age and understanding, what information should be shared with who and why.

Consequences of the visits

- 3.171** Where the social worker has concerns about whether the placement is adequately promoting the child's welfare, the IRO should be informed. 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 2010 Regulations [regulation 30]. 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/her needs appropriately, and if not, to consider alternatives.

Concerns about welfare

- 3.172** It will be a matter of professional judgement for the social worker, based on his/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 his/her mood or behaviour.
- 3.173** 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

- 3.174** The responsible authority is required 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 [\[regulation 31\(a\)\(i\) and \(b\)\]](#).
- 3.175** Arrangements for this support must be appropriate, having regard to the child's age and understanding, his/her religious persuasion, racial origin, cultural and linguistic background and any disability s/he may have [\[regulation 31\(a\)\(ii\)\]](#).

Supervision of the placement

- 3.176** 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 [\[Part 6\]](#).

Requirements to promote a strategic approach to placements

- 3.177** Previous information in this chapter has focused on the requirements for placements for individual children. In addition, section 22G of the 1989 Act places a duty on local authorities to take strategic action by requiring them to secure sufficient accommodation within their area which meets the needs of their looked

after children, so far as reasonably practicable (the sufficiency duty). The sufficiency duty lies with local authorities but will best be met by each local authority taking strategic action, and working with their Children's Trust partners to improve the choice and quality of placements and associated services for looked after children and those in need through effective commissioning. Having the most suitable placement available is a vital factor in improving placement stability, which in turn is a critical success factor in relation to improved outcomes for looked after children.

- 3.178** Separate statutory guidance on securing sufficient accommodation for looked after children accompanies this guidance.¹⁴ It provides clarification and support for local authorities on the most effective way of meeting this duty, primarily through improvements in commissioning practice.

What is meant by 'sufficiency'

- 3.179** The sufficiency duty requires local authorities to do more than simply ensure that accommodation be 'sufficient' in terms of the number of beds provided. They must have regard to the benefits of securing a range of accommodation through a number of providers. The accommodation must also meet the needs of the children which will be wide-ranging depending on age and the nature of any difficulties.

- 3.180** Section 22G of the 1989 Act does not require local authorities to provide accommodation within their area for every child they look after. The overriding principles that should underpin a local authority's response to the sufficiency duty are that:

- for the majority of children, placement within their local authority area will best meet their needs;
- where this is not reasonably practicable, their placement should be 'as close to home as possible' where that is the most appropriate placement; and
- in some cases, neither of the above will be consistent with the child's welfare and placement further from home will be necessary (for example because specialist services are not available close to home, or because the child should be removed from the local area for safeguarding reasons).

What is meant by 'reasonably practicable'

- 3.181** Section 22G requires that local authorities show that they are taking steps at strategic level to 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.

Standard for commissioning

3.182 A key implication of the sufficiency duty is that local authorities should:

- be active in managing their market, for instance by developing new provision in response to emerging trends;
- facilitate 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, they have done all they can to secure sufficiency.

3.183 To meet the requirements of the sufficiency duty, local authorities (working with their Children’s Trust partners), are expected to practise a level of commissioning which is in line with standards outlined in the sufficiency guidance which cover the following six areas:

- individual assessment and care planning;
- commissioning decision;
- strategic needs assessment;
- market management;
- collaboration; and
- securing services.

Independent visitors

3.184 A responsible authority looking after a child has a duty to appoint a person to be a child’s independent visitor where it appears to them to be in the child’s interest to do so **[section 23ZB(1)(b)]**. The appointment should be considered as part of the development of the care plan for the child or as part of a review of the child’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’s circumstances change. The child’s wishes and feelings should be ascertained and the responsible authority may not appoint an independent visitor if the child objects and the authority are satisfied that the child has sufficient understanding to make an informed decision **[under section 23ZB(6)(a)]**.

3.185 Being ‘independent’ means that an independent visitor must not be connected with the local authority as a result of: being an elected or co-opted member of the responsible authority; being an officer of the responsible authority who is employed

in relation to functions referred in section 18 of the 2004 Act; or being 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 such a member or an officer of the responsible authority [\[regulation 47\]](#).

Identifying when an independent visitor should be appointed

3.186 A responsible authority should assess whether it would be appropriate to appoint an independent visitor for a child they are looking after if either of the following criteria is satisfied:

- it appears 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; or
- the child has not been visited (or has not 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 12 months.

3.187 Section 23ZB(1)(b) of the 1989 Act requires the responsible authority to consider the appointment of an independent visitor in respect of a child they look after where it appears that it would be in the child's interests to do so. Decisions about whether to consider appointing an independent visitor, therefore, should be determined according to the needs of the child. In deciding what factors should be taken into account when making such a decision, 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 whether s/he experiences difficulties in communicating or building positive relationships;
- whether the child is likely to engage in behaviour which will put him/her at risk as a result of peer pressure or forming inappropriate relationships with people who are significantly older;
- whether a child placed in a residential setting would benefit from a more individualised relationship; and
- whether it would make a positive contribution to promoting the child's education and health.

The role and function of the independent visitor

3.188 In general, the independent visitor role is envisaged as being undertaken by volunteers from a lay background, though in some instances they may have qualities, skills, experience and qualifications which in other settings entitle them to undertake work in a professional capacity with children.

3.189 The purpose of the independent visitor role is to contribute to the welfare of the child. As such s/he should:

- promote the child's developmental, social, emotional, educational, religious and cultural needs;
- encourage the child to exercise his/her rights and to participate in decisions which will affect him/her;
- support the care plan for the child and his/her carers; and
- aim, as far as possible, to complement the activities of carers.

3.190 The independent visitor's functions are to visit, advise and befriend the child. The way these functions are carried out will vary according to the needs and wishes of the individual child.

- There will be a range of issues about which an independent visitor might offer the child advice. These will often be quite straightforward such as where to find or who to ask for particular information.
- Befriending involves trying to establish with the child a sense of trust in the relationship. For some children, earlier relationships with adults may have ended in disappointment and disillusionment and they may be reluctant or find it very difficult to establish rapport and trust. The independent visitor must be prepared for the process of establishing trust to be a slow one and for there to be setbacks.

3.191 The independent visitor's role and functions can also be described in terms of what s/he is not intended to do, for instance:

- not to be anything other than child-focused, however sympathetic to other points of view;
- not to be a substitute parent or carer;
- not to allow personal prejudices to determine actions;

- not to accept unquestioningly what those responsible for the child tell him/her but to remain open-minded and even sceptical;
- not to engage the child in intensive counselling involving complex situations; and
- not to take on the role of a skilled advocate in complex situations (see **paragraph 3.193** below).

3.192 In some cases the independent visitor will be involved in meetings or consultation processes, either as a legal requirement or on a discretionary basis, for instance:

- Where the responsible authority intends to make an application to court to keep the child in secure accommodation, they must inform a range of persons, including the child's independent visitor if one has been appointed, of the intention.
- The independent visitor may provide contributions to the review of a child's case either in writing or at case review meetings to which s/he has been invited or the child has requested his/her attendance. The independent visitor can put views to the meeting as a friend of the child.

3.193 In some situations the child may have an urgent need for skilled advocacy, for example because s/he is dissatisfied with the current arrangements for his/her care, because of an absence of progress in achieving a plan for the future or because s/he feels that his/her views are ignored or not sought or because s/he is being abused. The independent visitor is not expected to fulfil this role. 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 the 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.

3.194 In most situations it will neither be necessary nor appropriate for the independent visitor to keep detailed records of his/her discussions with the child. However, s/he 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.

3.195 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.

Selecting an independent visitor

- 3.196** In matching a child to an independent visitor the local authority should take account of the wishes and feelings of the child. This means that the child must be part of the process of deciding whether an independent visitor should be appointed.
- 3.197** The child's social worker will have been involved in the process of identifying whether the child would benefit from an independent visitor. His/her relationship with, and knowledge of, the child is key in matching the 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.
- 3.198** There will be a need for introductory meetings so that the child can decide whether s/he wishes the appointment to be made, and if not, the local authority should consider whether the appointment of another person might be possible and appropriate.
- 3.199** 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 will encourage such contacts and may pay expenses without changing the status to that of an independent visitor.

Recruitment

- 3.200** Local authorities should already have commissioning strategies in place for the recruitment of independent visitors. The requirement to widen the duty so that the appointment of an independent visitor can be considered for a larger group of looked after children should be taken into account as part of the commissioning process. 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 who, although able only to offer their services for shorter periods, may have valuable qualities and play a valuable role.

3.201 In establishing the service – either through direct recruitment or contracting with a provider – local authorities should ensure that:

- visitors are recruited 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 quickly and effectively);
- robust induction programmes 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; and
- induction training allows the opportunity to set expectations in respect of access to case information about the child and the extent to which the independent visitor keeps any record him/herself, over and above that required to claim expenses.

3.202 Local authorities should ensure that unsuitable persons who pose a serious threat to children's safety are not inadvertently recruited. Appointment procedures should be rigorous and formal. Applicants must submit detailed background information and provide the names of two personal referees. The relevant CRB checks should be carried out before any decision is taken to appoint the applicant.

3.203 On appointing an independent visitor, the responsible authority will decide how much information should be given to him/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 should be directly involved in deciding what information is made available to the independent visitor. Independent visitors, although appointed by the local authority, have no formal right to inspect the child's case files.

3.204 The local authority should ensure through training that independent visitors understand the need to ensure that any confidential information they hold about the child is safely stored. This can be established in the context of wider discussion about general confidentiality issues. There should be a clear understanding that such records will be destroyed on termination of the appointment.

3.205 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. S/he will of course need to be sensitive in all dealings with the child and his/her carers particularly where the child is in a family placement and the independent visitor is visiting the family's home.

- 3.206** 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.

Review and termination of appointment

- 3.207** Local authorities should consider at each review 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 s/he objects to it continuing and the authority are satisfied that s/he has sufficient understanding to make an informed decision, the authority must terminate the independent visitor's appointment in respect of that particular child. In conjunction with the child they should then consider whether it would be appropriate to appoint another independent visitor.
- 3.208** The independent visitor ceases to be appointed if s/he gives notice in writing to the authority who appointed him/her that s/he resigns the appointment or the authority gives 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 automatically terminate appointment in respect of the others. Each case should be considered separately.
- 3.209** Where the independent visitor disagrees with the local authority's action regarding termination s/he 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/her 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 responsible authority must take account of the child's wishes and feelings provided that it is consistent with the child's welfare.
- 3.210** There may be exceptional circumstances where the behaviour of the independent visitor, while 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 during this process. Consideration must be given to implementing safeguarding procedures where relevant and appropriate. These are set out in *Working Together to Safeguard Children*.⁴

Expenses

- 3.211** The independent visitor is entitled to recover from the authority who appointed him/her any reasonable expenses incurred for the purpose of his/her functions in visiting, advising and befriending the child. The term 'expenses' is intended to cover travel and out of pocket payments but is not intended to equate to a regular payment or salary for undertaking the role.
- 3.212** The need for an independent visitor to continue his/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 times as its own after-care responsibilities expire.

Chapter 4. Case review

- 4.1** The review of the care plan is the fourth component in the cycle of assessment, planning, intervention and review. The purpose of reviews is to monitor the progress of achieving the outcomes set out in the care plan and to make decisions to amend the plan as necessary in light of changed information and circumstances. Reviews take place in order to ensure that the child's welfare continues to be safeguarded and promoted in the most effective way throughout the period that s/he is looked after.
- 4.2** The IRO must ensure that the people responsible for implementing decisions taken in consequence of the review are identified, and that where decisions are not implemented as a consequence of the review this is brought to the attention of a senior officer within the responsible authority [\[regulation 36\]](#).

Policy on reviews

- 4.3** The responsible authority has a statutory duty to review the case of a looked after child [\[regulation 32\]](#). The responsible authority is required to have a written policy regarding the manner in which they will conduct reviews of children's cases under the 2010 Regulations [\[regulation 34\(1\)\]](#). Copies must be given to the child (if appropriate), the child's parents, anyone with parental responsibility and anyone else considered to be relevant (e.g. the child's carer).
- 4.4** Responsible authorities must ensure that their system provides for:
- a structured, co-ordinated approach to the conduct of a review;
 - the full participation of both child and parents in the decision-making process where possible and appropriate; and
 - the full participation of the child's carers, subject to the wishes and feelings of the child where age appropriate.

Timing of reviews

Figure 2: Maximum intervals between reviews



4.5 **Figure 2** shows the required timing of the reviews and the maximum intervals that may separate them [\[regulation 33\]](#).

4.6 The specified frequency of reviews is a minimum standard. A review should take place as often as the circumstances of the individual case require. Where there is a need for significant changes to the care plan, then the date of the review should be brought forward. No significant change to the care plan can be made unless it has been considered first at a review, unless this is not reasonably practicable.

4.7 The functions of the IRO have been set out in section 25B(1) of the 1989 Act and regulation 45 of the 2010 Regulations. Between reviews, if the care plan continues to meet the needs of the child, there may be no need for any communication between the IRO and the social worker or the child. However, in the event of a significant change/event in the child's life, the social worker must inform the IRO. Such changes include:

- a proposed change of care plan for example arising at short notice in the course of proceedings following directions from the court;
- where agreed decisions from the review are not carried out within the specified timescale;
- major change to the contact arrangements;
- changes of allocated social worker;
- any safeguarding concerns involving the child, which may lead to enquiries being made under section 47 of the 1989 Act ('child protection enquiries') and outcomes of child protection conferences, or other meetings that are not attended by the IRO;

- complaints from or on behalf of the child, parent or carer;
- unexpected changes in the child's placement provision which may significantly impact on placement stability or safeguarding arrangements;
- significant changes in birth family circumstances for example births, marriages or deaths which may have a particular impact on the child;
- if the child is charged with any offence leading to referral to youth offending services, pending criminal proceedings and any convictions or sentences as a result of such proceedings;
- if the child is excluded from school;
- if the child has run away or is missing from an approved placement;
- significant health, medical events, diagnoses, illnesses, hospitalisations, or serious accidents; and
- panel decisions in relation to permanency.

4.8 This list is by no means exhaustive and there may be many other circumstances in which the IRO may request that a review be convened. Parents and children should also be consulted about the need for an additional review.

Links with other reviews

4.9 The review of the care plan may be carried out at the same time as other reviews, for example reviews within the youth justice system [\[regulation 32 \(3\)\]](#).

4.10 Where a looked after child is subject to a child protection plan the timing of a child protection review conference should be the same as the review under the 2010 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 care plan (see **paragraph 2.11**).

Preparation

4.11 The social worker responsible for the child's case, in discussion with the line manager and the child (subject to age and understanding), should identify who should be invited to the review meeting.

4.12 The social worker should discuss with the IRO:

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

4.13 The IRO must attend and chair the meeting so far as reasonably practicable [\[regulation 36\(1\)\(a\)\]](#).

The conduct of the review

4.14 A review is made up of a number of elements [\[regulations 4-6\]](#), including:

- preparation;
- consultation;
- gathering information;
- consideration of the information at the review meeting; and
- revising the care plan.

4.15 Through this process the social worker will be in a position to report on:

- the progress made in implementing the plan and achieving the specified outcomes for the child;
- any changes required to the provision of services; and
- any change required to the legal status of the child (this may include the need for care proceedings or discharge of the care order).

4.16 The formal element of the review will usually involve a meeting or a series of meetings. Other meetings, perhaps solely involving professionals concerned with the child's care, will 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. Multi-disciplinary meetings to consider a case are not part of the review process but information gathered at such meetings may be considered at a review.

Consultation and information gathering

4.17 As with planning, it is essential that there is full consultation with all the relevant individuals before the review meeting. Appropriate provision should be made for children and parents with communication difficulties or whose first language is not English. The responsible authority should obtain and take account of the wishes and feelings of the following people about the plan and the progress made since the last review [section 22(4)]:

- the child (subject to age and understanding);
- his/her parents;
- any person who is not a parent but who has parental responsibility; and
- any other person thought to be relevant, for example:
 - the current carer (foster carer or residential social worker);
 - relevant health care professionals;
 - the child's GP;
 - the appropriate local authority where it is proposed (or it is the case already) that the child will be looked after in their area;
 - the appropriate local authority officer with lead responsibility for implementing the authority's duty to promote the educational achievement of its looked after children;
 - the most appropriate teacher at the child's current and/or new school which, where appropriate, should be the designated teacher for looked after children; and
 - the independent visitor (if one has been appointed).

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

4.19 A process should already be in place to ensure the continuous collection of information about the child's progress as part of the overall care planning process, rather than being a separate one-off exercise for the review meeting alone.

Attendance at the review meeting

4.20 The review must be child-centred and discussion should take place between the social worker and the child at least 20 working days before the meeting about who the child would like to attend the meeting and about where the meeting will be held. This allows time for subsequent discussion about attendance and venue

between the IRO and the social worker and for written invitations to be sent out. The involvement of the child will be subject to his/her age, understanding and welfare. The possibility of a child being accompanied to a review meeting by an advocate should be considered.

- 4.21** 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.
- 4.22** In exceptional circumstances the social worker, in consultation with the IRO may decide that the attendance of the child or parent (if this would not be in the interests of the child) at all, or part of, the review meeting 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/her parent from a review. Alternative arrangements should be considered. If a parent or child is excluded from a review, a written explanation of the reasons should be given. Other arrangements should be made for their involvement in the review process, and details of this should be placed on the child's case record.
- 4.23** In addition to the parent and child, the child's carer should be invited. The carer provides day-to-day parenting for the child and cannot do this effectively and deliver the actions set out in the placement plan if s/he is not part of the care planning and decision-making process. Other people with a legitimate interest in the child should also be invited if they have a contribution 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.
- 4.24** Where a long term plan is 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.
- 4.25** 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 to meet 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.

The review meeting: matters for consideration

4.26 The aim of the review is to assess how far the care plan is addressing the child's needs and whether any changes are required to achieve this. The focus of the first review meeting will be on examining and confirming the plan. Subsequent reviews will be occasions for monitoring progress against the plan and making decisions to amend the plan as necessary, to reflect new knowledge and changed circumstances.

4.27 The 2010 Regulations provide a checklist of matters for consideration at the review [Schedule 7]. This is not comprehensive or exclusive but sets the minimum requirements. In addition, the review must consider matters specified in the 1989 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:

- the effect of any change in the child's circumstances since the last review;
- whether decisions taken at the last review have been successfully implemented, and if not the reasons for that;
- whether the responsible authority should seek any change in the child's legal status, 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;
- whether there is a plan for permanence;
- the current arrangements for contact and whether there is a need to change these arrangements to promote contact between the child and his/her family or other relevant people;
- whether the placement continues to be appropriate and is meeting the needs of the child;
- the child's educational needs, including consideration of:
 - the child's most recent assessment of progress and development;
 - whether the arrangements that are in place are meeting the child's educational needs;
 - whether any changes are, or are likely to become, necessary or desirable before the child's next review; and
 - whether the child has a PEP and 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;
- the child's health, including consideration of:
 - the child's most recent health assessment (to include physical and emotional health needs);
 - whether the arrangements that are in place are meeting the child's health needs;
 - whether any changes are, or are likely to become, necessary or desirable before the child's next review; 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 the child understands any arrangements made to provide advice, support and assistance and whether these arrangements continue to meet his/her needs [\[regulation 31\]](#);
- the child's wishes and feelings about the care plan including in relation to any changes or proposed changes to the care plan (having regard to his/her age and understanding);
- the views of the child's IRO about any aspect of the case and the care plan.
- whether the plan fulfils the responsible authority's duty to safeguard and promote the child's welfare [\[section 22\(3\)\]](#); and
- whether it would be in the child's interests for an independent visitor to be appointed [\[section 23ZB\(1\)\(b\)\]](#).

4.28 The responsible authority is required 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 authorities, local housing authorities and other social services departments have a duty to comply with a request from a children's services department for help in the exercise of their functions [\[section 27\]](#).

4.29 The responsible authority is required to inform the IRO if they fail to implement decisions made in the course of the review [\[regulation 37\(b\)\]](#).

Updating and amending the care plan

4.30 The responsible authority must give a copy of any revised, amended, care plan to the child, parent and the IRO [regulation 6(3)]. The following should also have a copy of the care plan:

- where the child is placed with a foster carer, the fostering service provider who approved the foster carer;
- where the child is placed in a children's home, the person registered under Part 2 of the Care Standards Act 2000 in respect of that home; and
- where the child is placed in accordance with other arrangements under section 22c (6) (d), the person who will be responsible for the child at that accommodation.

Record of the review

4.31 A written record of each review should be completed and placed on the child's case record [regulation 38]. 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. The review record will be an important document for enabling the social worker to confirm how it has been agreed to update the care plan.

4.32 The IRO is responsible for completing this record on behalf of the responsible authority. This 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, and the intended outcomes of any changes;
- a list of the decisions made;
- the name of the person responsible for implementing each decision; and
- the relevant timescales.

4.33 High quality recording of information obtained in the course of the review and of the decisions arising from the review is essential to enable practitioners involved with the child's case to understand the actions for which they are responsible in order to meet the needs of the child, the family where appropriate, and the carer.

Duties of the IRO in the review process

- 4.34** The IRO must speak to the child in private in advance of the meeting(s) about the matters to be considered, unless the child refuses to do so or the IRO considers it inappropriate, having taken into account the child's age and understanding [regulation 36].
- 4.35** 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 planned outcomes are clear. The person responsible for implementing the decision and the timescale for implementation must be recorded.
- 4.36** 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 2010 Regulations or of a failure to implement any decisions.

Adjournments

- 4.37** Under the 2010 Regulations, the IRO has the power to adjourn reviews if s/he is not satisfied that sufficient information has been provided by the responsible authority to review the child's care plan in accordance with Schedule 7 (regulation 36 (2)). For example:
- 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 considers that such omissions will adversely affect the efficacy of the review; or
 - the IRO is not satisfied that the child has been properly prepared for the meeting.
- 4.38** However, careful consideration should be given before taking such action and the wishes and feelings of the child, the carer and, where appropriate, the parents should be sought before any decision is made. The IRO should consider the effects on the child of delaying a meeting for which s/he has 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 of the original scheduled date.

Disagreements

4.39 Where disagreements or differences in opinion arise in the course of the review process between those present, 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 they are required to have in place. The IRO is under a duty 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.

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

- has failed to address the needs of the child set out in the revised plan; and/or
- has failed to review the case in accordance with the regulations; and/or
- 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

4.41 The IRO has the statutory power to refer a case to Cafcass (or a Welsh family proceedings officer) if the IRO considers it appropriate to do so [\[section 25B\(3\)\]](#). 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:

- discussion 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; or
- application to the court for an order under the 1989 Act, either by the child or by an appropriate adult who is able and willing to act.

- 4.42** 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.

Chapter 5. Ceasing to look after a child

- 5.1** This chapter outlines the planning requirements that responsible authorities should follow so that looked after children are properly prepared and ready for the time when they will no longer be looked after.
- 5.2** Children will cease to be looked after for many different reasons. They do not cease to be looked after simply as a result of a move from a regulated placement in, for example, foster care or a children's home, to an unregulated one, perhaps in 'supported lodgings'.
- 5.3** Where responsible authorities are looking after older children making the transition to adulthood, there is a need for the authority to have arrangements in place to support effective planning so that the transition is positive and, so that where the young person remains entitled to care leaving support, there is a continuing focus on working with the young person and other agencies to achieve the best possible outcomes.

Children accommodated under section 20

- 5.4** Children who are accommodated under section 20 of the 1989 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 parents for a child on a care order, the child loses looked after status and his/her accompanying entitlements to supports and services upon leaving the accommodation provided by the responsible authority.
- 5.5** Where a child who is not an eligible child ceases to be looked after because they return home, the child will be a 'child in need' and a plan must be drawn up to identify the supports and services which will be needed by the child and family to ensure that the return home is successful [\[regulation 39\]](#). This should take into account the child's needs, the parenting capacity of those with parental responsibility and the wider context of family and environmental factors, reflecting the child's changed status. Where possible and appropriate, a review should be held in order to ensure that the plan to be drawn up will be appropriate and that all agencies concerned appreciate and act on their roles and responsibilities when the child is no longer looked after.

Eligible children – transition to adulthood

- 5.6** The White Paper *Care Matters: Time for change*² sets out the Government's expectations that care-experienced young people should expect the same level of care and support that others would expect from a reasonable parent. The responsible authority should make sure that such young people are provided with the opportunities they need, which will include offering them more than one chance to succeed.
- 5.7** Eligible children (see definition in **paragraph 1.24**) are looked after and entitled to the same level of support as every other looked after child. From their 16th birthday, the responsible authority must appoint a personal adviser for eligible children to work with them to prepare a pathway plan [**Schedule 2, paragraph 19B(4)**].
- 5.8** It will be essential that eligible children are provided with the full support that results from being looked after at a crucial period in their development when, for example, they may be studying for public examinations. Arrangements for supporting them to prepare for the time when they will cease to be looked after and leave care should be carefully planned to avoid duplication so that these arrangements reinforce the support that they should already be receiving. The 1989 Act sets out the basic obligations of responsible authorities with regard to eligible children. The authority is responsible for the assessment, the resulting pathway plan and for keeping this under review. Given that eligible children remain looked after, the allocated social worker may be the most appropriate professional to assess the young person's needs in order to draw up the pathway plan. The authority will then need to determine which professional should be appointed as the young person's personal adviser, mindful of the need to preserve continuity of services for that young person.

Functions of the personal adviser

- 5.9** The 2010 Regulations set out details of the functions of the personal adviser for an eligible child [**regulation 44**]. The personal adviser must:
- provide the young person with advice and support (this will include direct practical help to prepare them for the time when they move or cease to be looked after and also emotional support);
 - participate in reviews of the pathway plan which for an eligible child will include the care plan (see **paragraph 5.17**);
 - liaise with the responsible authority about the provision of services (this function may be carried out by the personal adviser working as a member of a social work or a specialist leaving care team; it will also involve liaising and negotiating with

the full range of services that make up the local authority's services, e.g. education and housing services);

- co-ordinate the provision of services, ensuring that these are responsive to the young person's needs and that s/he is able to access and make constructive use of them;
- remain informed about the young person's progress and keep in touch with him/her – visiting at no less than the statutory intervals; and
- maintain a record of their involvement with the young person, monitoring the effectiveness of services in preparing the young person for a time when s/he will move to greater independence or when s/he ceases to be looked after.

Assessment

- 5.10** The responsible authority is required to take stock of the young person's preparedness for the time when s/he will no longer be looked after, which for the majority of looked after children will be when they reach legal adulthood at age 18 [regulation 42]. This will inform the pathway plan [regulation 43]. The responsible authority should be able to use the assessment underpinning the young person's current care plan as the starting point for developing the pathway plan.
- 5.11** This assessment of need should take place not more than three months after the young person's 16th birthday or after s/he becomes eligible, if later than age 16. Where the young person is settled with an up to date care plan, this assessment should not require significant additional work. Where young people are, for example, studying for school examinations in year 11, their established routines should not be disrupted simply for administrative reasons. Most young people acquire the skills they need as they make the transition to the responsibilities of adulthood as part of their families. Where a young person has been looked after for some time his/her experience of care should support him/her to develop the skills and competences that s/he will need when s/he reaches legal adulthood and will no longer be looked after.
- 5.12** It is important to note that the assessment informing the care plan is primarily concerned with the young person's current needs while s/he is looked after, whereas the information required to complete the pathway plan must also address how, in the light of these needs, the young person will need to be supported to ensure that s/he is enabled to make a successful transition to the responsibilities of adulthood.
- 5.13** The 2010 Regulations set out the information that must be included in the assessment of need to inform the pathway plan [regulation 42(2)]. Inclusion of this

information is intended to ensure that the responsible authority establishes how the young person might be best prepared for the time that s/he will no longer be looked after.

5.14 The assessment of need must take account of the following:

- the young person's state of health (including his/her physical, emotional and mental health) and development;
- the young person's continuing need for education, training or employment;
- the support that will be offered to the young person in future by his/her parents, wider family network and friends;
- the financial resources available to the young person alongside an assessment of his/her financial capability, to evaluate the support that will need to be put in place to enable the young person to manage financially when s/he moves to greater independence;
- the extent to which the young person possesses the practical and other skills s/he will need to manage more independent living; and
- the young person's need for continuing care, support and accommodation.

5.15 The young person's wishes and feelings, those of his/her parents, or other person with parental responsibility, and of other appropriate people (e.g. the young person's carers) must also be taken into account as part of the process for assessing the young person's needs and this information must be recorded.

5.16 The assessment of needs must also take into account:

- the views of the educational establishment the young person attends and, if the young person has a statement of special education needs, the views of the authority that maintains the statement (if different);
- the IRO's views;
- the views of any person providing health care to the young person;
- the views of the young person's personal adviser; and
- the views of any other relevant person.

Planning

5.17 The pathway plan must be completed using the information gathered as part of the assessment and be drawn up as soon as possible after the assessment of needs is

completed. The pathway plan will include the young person's care plan and must include any services being provided in respect of the young person's disability or needs arising from being in custody or as a result of entering the country as an unaccompanied asylum seeker.

5.18 The 2010 Regulations set out the other matters that must be addressed by the pathway plan [\[Schedule 8\]](#):

- details of any accommodation that the young person will occupy when s/he ceases to be looked after, and how this will be suitable in view of his/her assessed needs;
- plans for the young person's education or training when the young person ceases to be looked after (where the young person is no longer of statutory school age the pathway plan may need to incorporate the goals and actions that were previously included in the PEP);
- how the responsible authority will assist the young person in obtaining employment or other purposeful activity when s/he ceases to be looked after, taking into account his/her aspirations, skills and educational potential;
- how the responsible authority will develop the practical and other skills that the young person will require when s/he will live independently;
- support to develop and sustain family and social relationships – contact with the young person's parents, wider family and friends and the capacity of this network to encourage the young person and enable him/her to make a positive transition to adulthood;
- the young person's financial capabilities and money management capacity, along with strategies to develop skills in this area;
- the young person's health care needs, including any physical, emotional and mental health needs and how such needs will be met when the young person ceases to be looked after; and
- the contingency arrangements that the authority will have in place, in case the pathway plan ceases to represent an effective strategy for supporting the young person to make a positive transition to independence.

5.19 The 2010 Regulations are also explicit that the pathway plan must specify the name of the young person's personal adviser and arrangements for visiting the young person [\[Schedule 8\]](#). Eligible children remaining in regulated placements will be visited with the same frequency as all other looked after children. If they were to start a new placement in 'other arrangements' they should be visited in the same way as any other child who has made a significant change.

- 5.20** The pathway plan should include details of exactly how the responsible authority proposes to meet the full range of the young person's needs in relation to the matters listed at Schedule 8 [\[regulation 43\(2\)\]](#). The plan will also be explicit about the timescale by which any action required to implement any aspect of the plan will be carried out, and by whom.
- 5.21** The pathway plan then is much more than a statement of intent. It is a living document. The assessment and pathway planning process for an eligible child must involve a measured, evidence-based analysis of the young person's continuing need for care and accommodation and the support necessary, so that s/he is properly prepared and ready for the time when s/he will no longer be looked after or supported in an unregulated setting, whichever is the sooner.
- 5.22** The voice of the young person is at the centre of the pathway planning process. The weight given to his/her views will depend on the assessment of his/her welfare by those professionals who are responsible for providing the young person with care and support. By themselves, these views will not be determinative. Where there are circumstances where the young person's wishes demand a level of independence, which the assessment suggests that s/he could not possibly manage – for example because the young person lacks basic skills in financial management, or does not demonstrate an understanding of the responsibilities required to live independently – then the young person's views should be mediated by a professional assessment of his/her welfare and the measures that might be required to support his/her current and long term best interests. Where there is doubt about the young person's capacity, it will be important that his/her personal adviser shares their concern with him/her, consults his/her social worker (where this is not the personal adviser) and his/her IRO, and if necessary arranges for the young person to have the support of an independent advocate.
- 5.23** No looked after young person should move from accommodation that is regulated under the Care Standards Act 2000 to other arrangements without a statutory review of his/her care plan, chaired by his/her IRO [\[section 22D\]](#). This would include moving to accommodation which is often referred to as 'semi-independent accommodation' (e.g. in supported lodgings; hostels; or supported housing where there is visiting support) which is not inspected by Ofsted.

Review

- 5.24** The pathway plan must be kept under regular review [\[Schedule 2, paragraph 19B\(5\)\]](#). The review of the pathway plan will include the statutory review of the care plan, chaired by the IRO. Reviews of the care plan are concerned with the current quality of the care being provided to the young person. The focus for the review of the pathway plan will also be to scrutinise the measures that the responsible

authority is taking to actively prepare the young person for the time that s/he will cease to be looked after.

- 5.25** No young person should be made to feel that s/he should 'leave care' before s/he is ready. The role of the young person's IRO will be crucial in making sure that the pathway plan reflects the young person's views. Before significant change can take place, such as moving from a regulated to an unregulated placement, or ceasing to be looked after, the young person's statutory review meeting must evaluate the quality of his/her pathway plan. The young person, his/her parents where appropriate, and the professionals responsible for supporting the young person to prepare for this significant change should be able to confirm that the young person has developed the skills necessary to manage any transition to more independent living arrangements where, as a result, less support will be provided.

Chapter 6. Short breaks

- 6.1** Short breaks are part of a continuum of services which support children in need and their families. They include the provision of day, evening, overnight and weekend activities for the child, and can take place in the child's own home, the home of an approved carer, or in a residential or community setting.
- 6.2** Most users of short breaks are disabled children and their families but non-disabled children in need may also receive short break services. This guidance applies to disabled children and other children in need. The breaks usually have two aims, to enable the child to participate in safe, fun and interesting activities, and to provide a break from caring for the parents.
- 6.3** *Short Breaks: Statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks*¹⁵ describes in greater detail the processes of assessment, planning and review which apply to disabled children and their families provided with short breaks. The approach described is proportionate to the needs of families and the services provided to meet these needs.

The legal basis for short breaks

- 6.4** Part 3 of the 1989 Act sets out local authorities' powers and duties to provide support services for children in need and their families. The definition of children in need includes children who are disabled within the meaning of the 1989 Act.¹⁶ Short breaks can be provided by local authorities through the use of their powers under:
- section 17(6) of the 1989 Act, which grants local authorities a power to provide accommodation as part of a range of services in order to discharge their general duty to safeguard and promote the welfare of children in need; and
 - section 20(4) of the 1989 Act, which grants local authorities a power to 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'.
- 6.5** Local authorities should always be clear about the legal basis on which services are provided. Their decision to provide a short break under section 17(6) or under section 20(4) should be informed by their assessment of the child's needs and should take account of parenting capacity and wider family and environmental factors, the wishes and feelings of the child and his/her parents and the nature of the service to be provided.

- 6.6** This guidance amends Local Authority Circular (2003) 13: Guidance on accommodating children in need and their families,¹⁷ by clarifying the decision-making process for local authorities in respect of providing short breaks accommodation to children. This guidance does not amend the Circular for other purposes.

Deciding which provision is most appropriate for the child

- 6.7** The key question to ask is how to promote and safeguard the welfare of the child most effectively. The assessment, planning and review processes for children in need may be appropriate or the additional requirements for looked after children may be more appropriate, depending on the circumstances of the child and family.

- 6.8** 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 within their family and environmental context;
- 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 – where the child spends short breaks in different settings, including residential schools, hospices and social care placements, it is more likely to be appropriate to provide accommodation under section 20(4);
- potential impact on the child's place in the family and on primary attachments;
- observation of the child (especially children who do not communicate verbally) during or immediately after the break by a person familiar with the mood and behaviour of the child (for example the parent or school staff);
- views of the child and views of parents – some children and parents may be reassured by and in favour of the status of a looked after child, while others 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 IRO to monitor the child's case and to chair reviews.

When a child is not looked after

- 6.9** If the child receives a short break under section 17(6) of the 1989 Act, the child is not looked after within the meaning of that Act.
- 6.10** 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.

When a child is looked after

- 6.11** 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. Such children might, for instance:
- have substantial packages of short breaks sometimes in more than one setting; and
 - belong to families whose resources are very stretched and who may have difficulties providing support to their child while s/he is away from home or monitoring the quality of care received.
- 6.12** In such cases, in consultation with parents, the local authority may decide to provide short break accommodation for the child under section 20(4). Providing accommodation on this basis has no effect on the parents' parental responsibility and, of course, parents can remove the child from the accommodation at any time. They 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.
- 6.13** If the short break accommodation is provided under section 20(4) of the 1989 Act for a continuous period of more than 24 hours, then the child is looked after by the responsible authority for the period in which the child is accommodated. If the child is placed for a weekend short break which lasts from Saturday morning until Sunday evening, this should count as two placement days.
- 6.14** If the child is looked after, then the short break placement must be a placement with local authority foster carers, in a registered children's home or in other appropriate arrangements [section 22C]. In these circumstances, the placement must comply with the 2010 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.

- 6.15** However, if that child receives a pre-planned series of short breaks in the same setting under section 20(4), the care planning arrangements under the 2010 Regulations are modified in respect of that child by regulation 48 to reflect the continuing central role played by the parents.

Table 2: Providing short break accommodation under the different legal provisions

<p>(a) Child is provided with accommodation under section 17(6)</p>	<p>(b) Child is provided with accommodation under section 20(4) for a continuous period of more than 24 hours; short breaks are pre-planned and in the same place; no break lasts more than 17 days and the total does not exceed 75 days in one year</p> <p>>> regulation 48 applies</p>	<p>(c) Child is provided with accommodation under section 20(4) for a continuous period of more than 24 hours; breaks may be with a range of providers or exceed timescales in column (b)</p> <p>>> regulation 48 does not apply</p>
<p>The child is not looked after.</p> <p>The 2010 Regulations do not apply.</p> <p>Consequently, there is no requirement to appoint an IRO.</p> <p>A child in need plan is required in accordance with the Assessment Framework (further details provided in short breaks guidance¹⁵).</p> <p>As good practice, reviews should be carried out at least every six months, and more often if required.</p>	<p>The child is looked after for the period that s/he is provided with accommodation.</p> <p>The 2010 Regulations apply with modifications in respect of planning arrangements :</p> <ul style="list-style-type: none"> ● the authority must make a short break care plan addressing issues key to the safe care of the child; and ● an IRO must be appointed. <p>The first visit must take place within three months of the first placement day or as soon as practicable thereafter. Subsequent visits must be at intervals of no more than six months.</p> <p>The child's case must be reviewed within three months of the start of the first placement and then at intervals of no more than six months.</p>	<p>The child is looked after for the period that s/he is provided with accommodation.</p> <p>The 2010 Regulations apply without modifications in respect of planning arrangements:</p> <ul style="list-style-type: none"> ● the authority must make a care plan; ● an IRO must be appointed; and ● the child's case must be reviewed regularly. <p>Visits must take place in accordance with regulation 28.</p> <p>The first review must be within twenty days of the start of the first placement, the second no more than three months after the first and subsequent reviews no more than six months after the previous review.</p>
<p>The provision of accommodation under section 17(6) or section 20(4) does not affect parental responsibility.</p>		

Care planning, placement and review in relation to a planned series of short breaks

- 6.16** Where a child is provided with a series of pre-planned short breaks under section 20(4) of the 1989 Act (and the child is accommodated for a continuous period of more than 24 hours) but no single placement lasts more than 17 days and the total length of those placements does not exceed 75 days in a year, regulation 48 of the 2010 Regulations applies. Regulation 48 allows for a series of pre-planned short breaks for such a child in the same placement to be treated as a single placement for the purposes of applying the 2010 Regulations.
- 6.17** In many cases where regulation 48 applies, 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. In those cases where regulation 48 applies, therefore, the planning arrangements required by the 2010 Regulations are modified in their application to the short breaks in recognition of the continuing central role played by parents.
- 6.18** The modifications introduced by regulation 48 will reduce the administrative load and ensure requirements are more proportionate to the needs of children in short breaks.
- 6.19** Where a child receives short breaks in more than one setting including, for example, a residential school or a hospice, regulation 48 cannot apply.
- 6.20** Where children are away from their parents for longer periods than those described at **paragraph 6.16** the 2010 Regulations will apply in full to each separate placement.

Planning requirements where regulation 48 applies

- 6.21** The purpose of the short break care plan for a child in a short break is substantially different from the plan for a child who is looked after continuously. Where a child receives 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 and partner agencies 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/her parents. The short break care plan should be linked to the child in need plan, which should include all the key information about the child. These should not be separate plans which duplicate information.

6.22 The short break care plan should include that information which is necessary in order to allow those caring for the child to do so safely and sensitively and to promote good outcomes for the child. The plan must include information about:

- the child's health, emotional and behavioural development including full details about any disabilities, medical needs and medications the child may have;
- the child's specific communication needs;
- arrangements for contacting the parents as necessary, in particular, an emergency contact number;
- the child's likes and dislikes with particular regard to stimulation and leisure interests; 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).

6.23 In addition, each short break care plan must include, as appropriate, information to support the placement [\[Schedule 2, paragraph 3\]](#). 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/her 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, 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 carer, confirmation of the foster carer's agreement.

6.24 Where the child is disabled and depending on the 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.

- 6.25** Parents must be fully involved in all aspects of agreeing the short break care plan. As far as is practicable, children 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.
- 6.26** The short break care plan should be signed by the child's parents, by the responsible authority, by those providing the care, the provider agency and, where appropriate, by the child.

Visits where regulation 48 applies

- 6.27** Visits to children in short breaks in accordance with regulation 48 are less frequent than for 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.
- 6.28** Visits to a child 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 parents, and recorded in the child's short break care plan before the start of the placement. The visitor should usually be a qualified social worker and in every case should be a person with the skills and experience to communicate effectively with the child and fulfil the functions of the visit. The first visit must take place within three months of the first placement day or as soon as practicable thereafter. Subsequent visits should be at intervals of no more than six months. The visit is an important opportunity for a representative of the authority to ensure that the placement is meeting the child's needs.

Review requirements

- 6.29** In accordance with regulation 48, 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 three months of the start of their first placement. Subsequent reviews should be at intervals of no more than six

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 short break care plan unless the change has been first considered at a review. Each review should consider whether the legal provisions under which short breaks are provided are the most appropriate to promote and safeguard the welfare of the child.

The role of the independent reviewing officer

- 6.30** 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 can highly value their contribution and independent perspective, especially in helping to resolve any difficulties with the placement. IROs have a responsibility to alert the local authority if the placement is not meeting the child's needs.

Chapter 7. Case records

- 7.1** Good case recording is important to demonstrate the accountability of staff working in looked after children's services to those who use those services. 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

- 7.2** The responsible authority is required to establish and maintain the child's written case record [\[regulation 49\]](#). This is 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, the agreements reached, the decisions taken and the reasons for them. Careful recording of information which pertains to a child's plan, placement and progress, enables the case to be monitored effectively and kept under review.

- 7.3** The case record must include [\[regulation 49\(2\)\]](#):

- documents created as part of the assessment process (including health care and education documents);
- any court order relating to the child such as the care order or order relating to contact;
- the first care plan, any changes made to that plan and any subsequent plans (to include the health plan, the placement plan and the PEP); and
- details of any arrangements for the responsible authority's functions to be discharged by an independent fostering provider or provider of social work services.

- 7.4** 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 which is too frequently lost.

7.5 Records should also include:

- details of arrangements for contact;
- copies of reports provided during court proceedings such as guardian's reports and specialist assessments;
- additional 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;
- records of visits; and
- other correspondence which relates to the child.

7.6 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 his/her own progress file to keep with him/her.

7.7 The responsible authority's records are an important source of information for the child who is looked after away from his/her 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.

7.8 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/her 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.

7.9 The child's record should be separate from other records, such as those relating to a foster carer 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 safekeeping

- 7.10** The child's case record must be kept until the 75th anniversary of his/her date of birth or 15 years from the date of death in the case of a child who dies before reaching the age of 18 [\[regulation 50\(1\)\]](#).
- 7.11** Responsible authorities must secure the safekeeping of records and must take any necessary steps to ensure they are treated as confidential. 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 require access because of their duties in relation to a case [\[regulation 50\(2\)\]](#).

Access and confidentiality

- 7.12** 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.
- 7.13** Access to records by the local commissioner is provided for in the Local Government Act 1974.¹⁸ The other relevant piece of legislation is the Data Protection Act 1998. This gives individuals rights of access to certain information about themselves. The Data Protection Act 1998 applies to all records, including social work records. The Act provides for certain information (such as adoption records) to be exempted in prescribed circumstances from the right of access.

Electronic records

- 7.14** The Data Protection Act 1998 applies to both 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 and their families to easily find their story in a logical narrative.
- 7.15** 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/her unless there are special reasons for withholding it, covered by the legislation and guidance mentioned.

Chapter 8. Application of the 2010 Regulations to looked after children in contact with youth justice services

- 8.1** Looked after children who offend, or who are at risk of offending, should receive the same quality of care as all other looked after children. The responsible authority has continuing duties and responsibilities as a good corporate parent for such children, including those who are in custody.

- 8.2** Looked after children are more than twice as likely to be cautioned for or convicted of an offence than their peers¹⁹ and, although estimates vary, it is thought that about a quarter of young men and half of young women in custody have been in care.²⁰ Local authorities should have strategies that set out how they will support positive behaviour amongst looked after children who may be at risk of offending and the measures that will protect them from 'unnecessary criminalisation', including a protocol with local police.

- 8.3** Where a looked after child is thought to be at risk of offending, both the care plan and placement plan should include the support measures needed to prevent this. This support may take the form of ensuring that the child's relevant developmental needs are met through mainstream services but the youth offending team (YOT) in the area where the child is placed will be able to advise on specific preventative services that may also be suitable and appropriate. The IRO should ensure that care plans adequately address this aspect of the child's needs.

Responsibilities

- 8.4** 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 because of the involvement of other agencies with different priorities, i.e. to prevent offending.²¹ This chapter provides specific guidance to clarify the interaction between the care and the youth justice systems. A flowchart of respective roles and responsibilities is included at **Annex 4**.

- 8.5** While 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 YOTs and custodial establishments to make

arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children (section 11) and to co-operate with other agencies in the making of arrangements under section 10, and they should have processes in place to fulfil these duties.

- 8.6** Local authorities and YOTs should have clear and agreed 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.
- 8.7** Children detained under criminal justice legislation in secure establishments are subject to the 1989 Act.²² The responsible authority continues to have responsibilities towards them in the same way as they would to other children in need – recognising that the court, by sentencing the child, has determined where s/he will live.

Looked after children who have been arrested

- 8.8** If a looked after child is arrested and s/he is aged under 17, the responsible authority should ensure that the child has the support of an appropriate adult and a solicitor with the necessary knowledge and skills while at the police station. A young person aged 17 or over is entitled to a solicitor; if s/he is mentally vulnerable an appropriate adult should also be provided.
- 8.9** 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 including the child's pathway plan, and the YOT worker disclosing details to the child's social worker about the child's offending history. 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 where an offence has been committed.²³
- 8.10** Whether the child is charged or not, consideration should be given to reviewing the child's care plan to ensure that measures are in place to address the causes of offending. YOTs have a role in prevention and will be able to provide advice on reducing the risk of offending and access to local programmes such as Youth Intervention Programmes (YIPs) and Youth Inclusion Support Panels (YISPs).

Looked after children charged with an offence

- 8.11** When a looked after child is charged with an offence it is important that s/he is not disadvantaged by a refusal of bail because of his/her looked after 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 offering him/her the right support to divert them from offending. 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.

- 8.12** The responsible 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.

Children not currently looked after

- 8.13** A child who is not currently looked after may become so once s/he is involved with the youth justice system. See **Annex 5** for a summary of changes of care status as a result of criminal justice orders. 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 must be provided with accommodation under section 21 of the 1989 Act until the hearing and is therefore looked after. The second instance is where a child is remanded to the care of the local authority, with or without a secure requirement, as described in **paragraph 8.14(i)** below.

Children who are remanded

- 8.14** There are a number of options open to the court if a 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 his/her looked after status: some children not currently looked after will become so, while others will cease to be looked after (see **Annex 5**). The types of remand are as follows.
- i. 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 Persons Act 1969. In the case of children not currently 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 (under section 23(4)) if aged 12-16 ('court ordered secure remand' or 'COSR'). For children aged 10-11, the court cannot make a COSR but the local authority can apply for a secure accommodation order in respect of the child under section 25 of the 1989 Act.

- ii. Children aged 10-16 who are already looked after under a care order or as an accommodated child may also be remanded under section 23. Whether this will be appropriate in individual cases will be a matter for the court. In practice, though, this is unlikely as 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.
- iii. Young people aged 17 cannot be remanded to local authority care but can be remanded to custody, which means they will be placed in a young offender institution (YOI). Boys aged 15-16 may also be remanded to custody if they are not considered to be vulnerable. Young people who are remanded to custody do not have looked after status, unless they are already the subject of a care order in which case the local authority continues to be responsible for care planning. Young people who were looked after under section 20 (an accommodated child) or section 21 will no longer be looked after once they are remanded to custody.

- 8.15** 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 section 23 of the Children and Young Persons Act 1969.
- 8.16** In the case of a COSR there is an agreement in place that the Youth Justice Board (YJB) placement service will identify a placement in a secure children's home (SCH) or secure training centre (STC), but the responsible authority is responsible for care planning as the child will be looked after in accordance with the 2010 Regulations. They must assess the child's needs, building on any previous assessment completed by the YOT, and plan his/her care in conjunction with the responsible YOT. The YJB has issued a COSR protocol which describes the process of admission to a SCH or STC and procedures that should be followed.²⁴ The YJB has also published a guidance document detailing the differences between a COSR and remand to prison custody.²⁵
- 8.17** Looked after children who are remanded, as described above, are entitled to the same care planning and review processes from the responsible local authority within the timescales set out in the 2010 Regulations. Care planning for the child must continue and will need to consider the child's needs both during the period of the remand and following the court hearing. The care plan will need to take into account arrangements for the child's support where s/he ceases to be looked after because of receiving a custodial sentence.
- 8.18** It is also best practice that, wherever possible and appropriate, the responsible authority should, in partnership with the child's legal representative and the responsible YOT, make representations to the court to secure bail for the child, or to seek the removal of the secure requirement.

Looked after children who are convicted

- 8.19** If a looked after child is convicted of an offence, the local authority social worker should provide information to the YOT case manager who is responsible for completing the Asset (the YJB assessment of risk factors for offending) and for any other assessments of the young person. The YOT should also consult the child's social worker over the content and recommendations of the pre-sentence report (PSR) which will be used by the court to determine the appropriate disposal, ensuring that mitigating factors arising from the child's life experiences are included and that welfare considerations are reflected in the proposed disposal.
- 8.20** 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 and placed on the child's case record.
- 8.21** If a custodial sentence is likely, the YOT worker and social worker should work together to prepare the child and his/her family by explaining what will happen and how the child will be supported during and after his/her time in custody.
- 8.22** 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 case manager about how the decision of the court will be notified to the responsible authority, including details of the child's placement if s/he is sentenced to custody. This notification should take place on the same day as sentencing, and be followed up in writing.

Requirements following sentence

- 8.23** Following sentence, the child's legal status as a looked after child may change again (see **Annex 5**).
- 8.24** If the child receives a **community sentence**, the local authority social worker and YOT case manager should continue to work closely together, sharing information and clarifying their roles and responsibilities in relation to the child. If the child is subject to a care order or an accommodated child s/he will remain a looked after child. Children who were provided with accommodation under section 21 following a remand to local authority care will cease to be looked after (unless it is decided to accommodate them under section 20). If the court imposes a youth rehabilitation

order, this can be accompanied by a Local Authority Residence Requirement or Intensive Fostering Requirement. Such children are provided with accommodation under section 21 and will therefore be looked after and the responsible local authority must be consulted before these requirements are imposed.

8.25 If the child receives a **custodial sentence**, the responsibility of the local authority will depend on the child's care status:

- if the child is subject to a care order under section 31 of the 1989 Act, s/he remains looked after and there is no change to his/her legal status and the local authority continues to be responsible for planning and reviewing his/her care;
- if the child was an accommodated child, s/he will lose his/her looked after status while serving the custodial sentence because s/he is not being accommodated in a placement provided by the local authority. S/he will however, be entitled to consideration as a child ceasing to be looked after and there is a duty on local authorities [\[section 23ZA\]](#) to visit such children who have ceased to be looked after and are in custody which is the subject of separate guidance;²⁶
- if the child was remanded to the care of the local authority under section 23 of the Children and Young Persons Act 1969, and therefore looked after by virtue of section 21, s/he ceases to be looked after on being sentenced to custody;
- if the young person is a 'relevant child' and so is entitled to support and services as a care leaver, this status remains unchanged while in custody and the local authority that looked after the young person retains responsibility for providing support during his/her time in custody and on release (some young people will acquire this status while they are in custody on attaining the age of 16: that is, those who have spent at least 13 weeks looked after since the age of 14 and were subject to a care order or an accommodated child or remanded to local authority accommodation immediately prior to entering custody). See the Children (Leaving Care) (England) Regulations 2001, regulation 4.

Custodial sentences

8.26 The YJB placement service is responsible for identifying the secure institution where the young person will serve their sentence. The YOT case manager is invited to recommend the establishment that s/he considers to be most suitable and the responsible authority should ensure that they contribute their opinion. The final decision rests with the YJB. The YOT should inform the responsible authority where the child will be serving their sentence on the day that it starts. The social worker can then arrange to visit the child and the child's IRO must also be informed.

8.27 Where the child is remanded or serving a short sentence, and was making good progress in his/her local authority placement before entering custody, consideration

should be given to retaining that placement so that s/he 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 for the child to move to on release should be sought as soon as is practicable during his/her time in custody.

- 8.28** A custodial sentence does not have the same status as a placement made by the responsible authority under section 22C of the 1989 Act and the relevant statutory regulations on placements (as set out in regulations 9 to 14) do not therefore apply. However, the responsible authority continues to have other responsibilities, as outlined below.

Responsibilities of the local authority to looked after children in custody

- 8.29** This section concerns children who are subject to a care order, or remanded to a SCH or STC, and therefore are looked after children while in custody (see **paragraph 8.25**). The responsible authority is the child's corporate parent in the same way as for other looked after children and must assess and plan to meet his/her needs as they would if the child was in any placement under section 22C. Neither the YOT nor the secure establishment can fulfil this corporate parental role. Children in these circumstances can feel rejected and abandoned if the local authority ceases to be an effective corporate parent. A fuller account of children's views and detailed practice guidance is available.²⁷
- 8.30** The SCH, STC or YOI where the child is serving his/her sentence will have the same need for information as any other residential setting. Within five working days of the child's remand or sentence to custody, the social worker should contact the child's YOT case manager and the designated case supervisor within the establishment to inform them of:
- the child's care status, including his/her entitlement to support as a care leaver;
 - persons with parental responsibility for the child;
 - name and contact details of the allocated social worker, his/her team manager and IRO;
 - any immediate information necessary to ensure the child's safety or the safety of others;
 - 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; and
- the date of any forthcoming review of the child's case.

This should be followed up in writing to the establishment and copied to the YOT case manager.

- 8.31** A representative of the responsible authority must visit the child within one week of him/her being sentenced and detained [\[regulation 28 \(6\)\]](#). This representative should usually be the child's allocated social worker. **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 three 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.
- 8.32** For example, it is good practice for the social worker to attend the child's remand or sentence planning meetings. Where the child is serving their sentence in a SCH or STC, a visit should also take place if there has been a notification by the Ofsted Chief Inspector of the underperformance of a placement provider (under section 30A of the Care Standards Act 2000 or under section 47 of the Criminal Justice and Public Disorder Act 1994 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.
- 8.33** The purpose of the visits is to keep in touch with the child, assess his/her needs 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 to see his/her social worker or requests that others attend the meeting. Social workers should be afforded the same status as legal visitors rather than the more limited access to the child that applies to family visits.

Assessment of child's needs

- 8.34** Looked after children in custody also remain entitled to advice, assistance and support in between visits from the responsible local authority. The social worker should consider whether the child is being adequately safeguarded and his/her welfare promoted. Specific factors to take into consideration are as follows:
- Is the child safe?
 - Is there a risk of self harm?
 - Does the child need money, clothes, books or other practical support?

- Are education staff aware of and able to meet the child's educational needs, including any special needs or abilities?
- Are the health unit and wing staff aware of, and able to meet, the child's health needs?
- Are staff aware of, and able to meet, the child's religious and cultural needs?
- Is the child worried about anything? If so, what?
- What impact has the sentence had on family relationships? Does there need to be help with contact arrangements?
- What action is needed to provide for the child's placement on release?
- Are changes needed to the child's care plan/pathway plan?

8.35 This assessment should be informed by the views of the YOT case manager, staff in the custodial establishment (including pastoral care, education and health staff), the child and his/her family.

8.36 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

8.37 Children and young people sentenced or remanded in custody are among the most vulnerable, and specific consideration to the safeguarding of this particular group requires ongoing support from children's services and Local Safeguarding Children's Boards (LSCBs) in addition to the establishment's day to day duty of care.

8.38 The responsible authority does not have the power to change the secure establishment where the child is serving his/her sentence 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 his/her welfare promoted, there are a number of avenues for the responsible authority to pursue. In the first instance, the authority may be able to resolve the concerns by agreement with the establishment itself.

8.39 All members of staff working in secure establishments have a duty to ensure that children are safeguarded effectively. In addition governors, directors, and senior managers have a duty to ensure that appropriate procedures are in place to enable them to fulfil their safeguarding responsibilities. These procedures should be shared, reviewed and agreed with the LSCB. They should include, but not be limited to, arrangements to respond to:

- child protection allegations;
- incidents of self-harm and suicide; and
- incidents of violence and bullying.

8.40 All children should have a case supervisor within the establishment. In the case of YOIs, they are required to have a 'safeguarding children's manager' and there may also be one or more children and families' social workers based within the establishment who may be able to address the problem. For SCHs and STCs, an approach should be made to the unit manager or a designated lead for safeguarding. One option would be to move the child to another unit within the establishment or to provide him/her with additional support or services.

8.41 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. LSCBs 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.

8.42 The responsible 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.

8.43 Where the need for a transfer is agreed, the child may be moved to another YOI, STC or SCH. There is, however, a power²⁸ (under Part 3, section 34 of the Offender Management Act 2007) which allows children serving a custodial sentence to be placed other than in the secure estate.

Planning and review process

- 8.44** For children who remain looked after while in custody, the care planning and review process continues, including talking to the child about his/her wishes and feelings and consulting other key participants in advance of review meetings.
- 8.45** Going into custody is a significant change; if a review will not already be due to take place then it is a requirement that one should be scheduled during the period that the young person is in custody [\[regulation 33 \(3\)\(d\)\]](#). 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 to ensure that the child's care plan can be updated to meet his/her needs on release, particularly his/her placement.
- 8.46** A person within the custodial establishment should be nominated to act as the link with the care planning process. This may be the child's case supervisor 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 his/her personal officer. This link person will be informed of the key elements of the child's care plan and, in turn, keep the child's social worker informed of the child's progress and events within the establishment.
- 8.47** The child's YOT case manager should also be kept informed of changes to the child's care plan and other relevant information. Subject to the child's agreement, the YOT case manager and the nominated link person within the establishment should be invited to attend review meetings.

Sentence planning

- 8.48** Each child detained in a secure setting through criminal justice legislation must have a remand or sentence plan, supervised by the YOT case manager.²⁹ 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 his/her time in custody and, for sentenced children, on release into 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.
- 8.49** The child's social worker should always be invited to remand or sentence planning meetings and his/her input will be integral to effective resettlement planning. It is good practice for him/her to attend as many meetings as possible but, as a minimum, s/he should attend 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.

- 8.50** If the social worker is not able to attend, s/he must provide relevant information about the child's care or pathway plan to the YOT case manager prior to the meeting. The YOT case manager is responsible for making the links between the respective plans and feeding information back.

Planning for release

- 8.51** The child's social worker and YOT case manager must work together to co-ordinate arrangements for the child's release and subsequent support in the community. The child will continue to have two separate plans: the local authority care plan (which may include the pathway plan) and the YOT plan. These must, however be co-ordinated so that the child is clear what will be happening and the practitioners are clear about their respective roles.
- 8.52** Where a review of the child's case, chaired by their IRO, has not already occurred, then the responsible authority must arrange for a review to take place prior to the child's release from custody [\[regulation 33\(3\)\(d\)\]](#). The timing of this review might be scheduled so that it is co-ordinated with the release preparation meeting.
- 8.53** If the child is to continue being looked after, the responsible authority will be responsible for the provision of a placement and financial support in the community. The responsible authority will also be responsible for other aspects of the child's care plan, as with any other looked after child. The responsible authority should record this plan and make copies available to the child, the YOT case manager, IRO, other agencies that will be involved with supporting the child after release, and the child's family, if appropriate.
- 8.54** The YOT will be responsible for providing ongoing supervision and interventions targeted at the prevention of further offending. This will include offending behaviour programmes that the child is required to attend, the arrangements for reporting to the YOT and any electronic monitoring. All requirements, including the address where the child must reside, will be recorded in a Notice of Supervision or Licence that the child is required to sign.
- 8.55** There will be potential areas of overlap, where arrangements may be made by either the YOT case manager or local authority social worker, such as education provision or health treatment. Negotiation should take place on which of them is best placed to make these arrangements in each case.

8.56 As soon as possible, and at least by the time of the final sentence planning meeting ten working days before release, the child must be told the content of both the care plan and the Notice of Supervision or Licence so that s/he is aware of:

- who is collecting him/her;
- where s/he 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 s/he will receive financial support;
- when s/he will be seeing his/her social worker; and
- the roles and responsibilities of the respective practitioners.

Support in the community

8.57 Sentenced looked after children returning to the community will continue to be supervised by the YOT case manager. 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 those on other types of sentence will also be subject to supervision. The responsible authority must maintain contact with children in care during this crucial period following their discharge from custody.

8.58 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; and
- avoid situations where offending may occur.

- 8.59** The local authority social worker and YOT case manager 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, YOT case manager and 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 his/her supervision requirements, i.e. if the YOT considers the child has broken the conditions of his/her Notice of Supervision and issues proceedings to return the child to court, when s/he 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 his/her Notice of Supervision or Licence conditions, the responsible authority should work with the YOT to put additional support in place. For example, it might be arranged for a residential care worker to take the child to appointments at the YOT or for a foster carer to text the child as a reminder.
- 8.60** The role of the child's allocated social worker in safeguarding the child and promoting his/her welfare is different and more extensive than that of the YOT case manager, whose involvement will be determined by the length of any order and by the child's offending behaviour.

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14. Department for Children, Schools and Families (2010) *Sufficiency: Statutory guidance on securing sufficient accommodation for looked after children*. Nottingham: DCSF Publications.
15. Department for Children, Schools and Families (2010) *Short Breaks: Statutory guidance on how to promote and safeguard the welfare of disabled children using short breaks*. Nottingham: DCSF Publications.
16. Section 17(11) states: '... a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity...'
17. Department of Health Local Authority Circular (2003) 13: *Guidance on accommodating children in need and their families*. London: DH.
18. A 'local commissioner' under the 1974 Act is a member of the Commission for Local Administration in England.
19. Department for Children, Schools and Families (2009) *Outcome Indicators for Children Looked After: Twelve months to 30 September 2008, England*. SFR 07/2009. London: DCSF.
20. HM Inspectorate of Prisons and YJB (2009) *Children and Young People in Custody 2008-2009*.
21. Details of the youth justice system can be found on the Youth Justice Board website **www.yjb.gov.uk**
22. In the case of YOIs, this was established by judicial review. See *R v Secretary of State* (2002) EWHC 2497.
23. See Crown Prosecution Service website (2009) 'Youth Offenders' at **www.cps.gov.uk/legal/v_to_z/youth_offenders/#a22**
24. A copy of this protocol is available from the Youth Justice Board.
25. Youth Justice Board (2008) *Court Ordered Secure Remands and Remands to Prison Custody: Guidance note to youth offending teams and secure establishments*. London: YJB.
26. Statutory Guidance to the Former Looked After Children (in Detention) Visiting Arrangements (England) Regulations 2010.

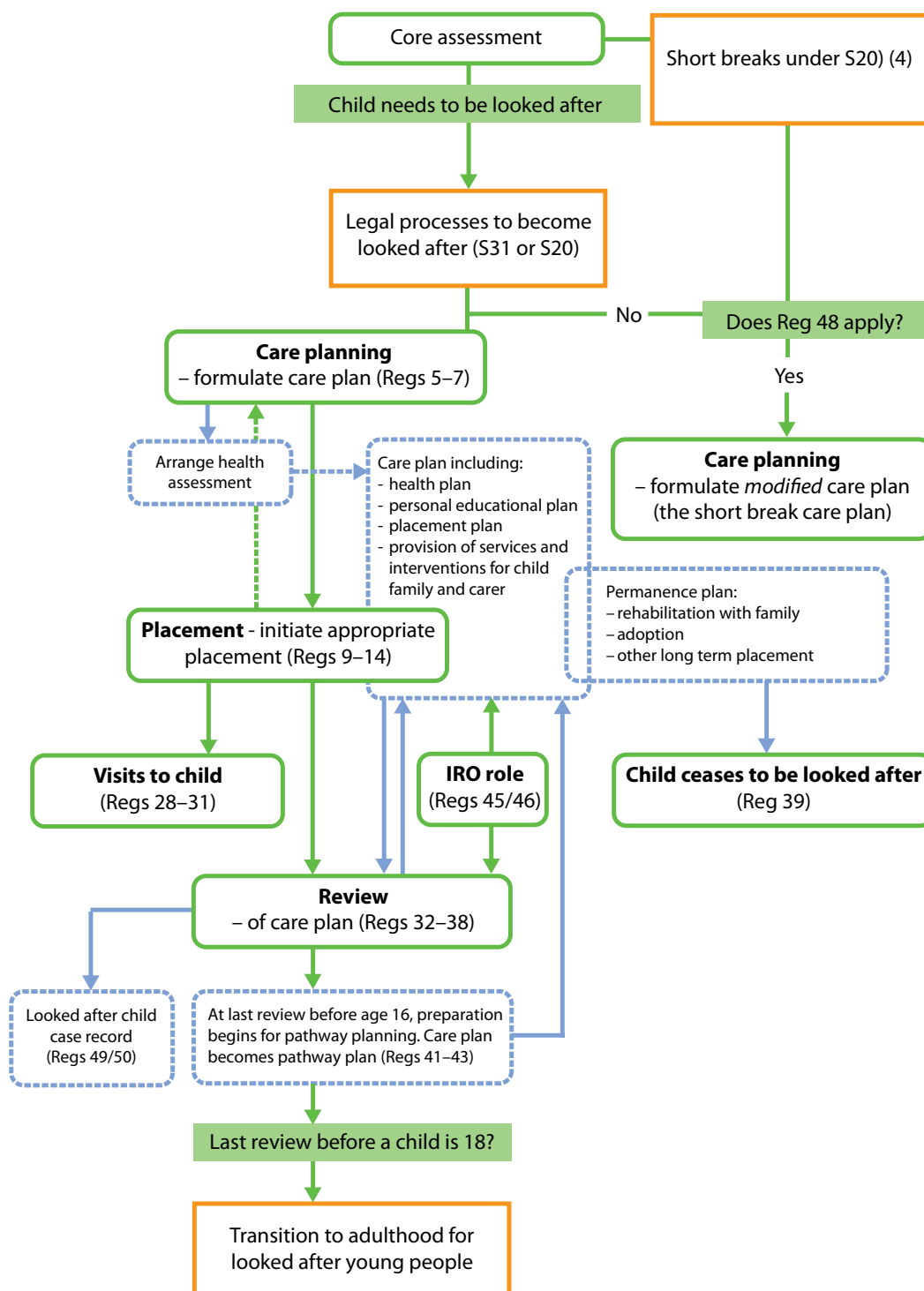
27. Hart, D (2006) *Tell Them Not To Forget About Us: A guide to practice with looked after children in custody*. London: NCB.
28. This would require the alternative placement to be first designated as youth detention accommodation by the Secretary of State.
29. Youth Justice Board (2010) *Case Management Guidance*. See **www.yjb.gov.uk**
30. Department of Health (2004) *National Service Framework for Children, Young People and Maternity Services: Core standards*. London: DH.
31. See, for example, Desforges and Abouchaar (2003) *The Impact of Parental Involvement, Parental Support and Family Education on Pupil Achievements and Adjustment: A literature review. Research Report RR433*. London: DfES.
32. See for example Center on the Developing Child (2007) *A Science-Based Framework for Early Childhood Policy: Using evidence to improve outcomes in learning, behavior, and health for vulnerable children*. Cambridge, MA: Center on the Developing Child, Harvard University (available at **www.developingchild.harvard.edu**).

Annex 1. The statutory framework for care planning



Key supporting legislation: Children Act 1989, Children (Leaving Care) Act 2000, Adoption and Children Act 2002, Children Act 2004

Annex 2. Overview of the care planning, placement and review process



Annex 3 Dimensions of developmental need

Health

- A.1** Childhood and young adulthood are critical stages in the development of behavioural patterns that will affect people's health in later years. Intervening at this stage helps to promote good health and reduce inequalities. Early intervention will therefore support a promotional approach to health and the reduction of inequalities.
- A.2** Good health includes all aspects of health, including emotional well being, dental health, healthy eating and physical activity. It includes the necessity of a child being registered with a GP and should include an emphasis on primary prevention alongside being involved in the Healthy Child Programme,⁸ which plays a key role in improving the health and wellbeing of children as part of an integrated approach to support. Playing and being involved in activities helps children to make friends, be creative and imaginative, focus, concentrate, and have fun. These are important elements of healthy child development and are some of the building blocks of emotional health and wellbeing.
- A.3** Good physical and emotional health and wellbeing are key contributors to broader outcomes such as improved learning and achievement and to the long term prospects of young people as they move into adulthood. We know, for example, that children with poor health are at greater risk of lower levels of educational attainment and of failing to achieve their full potential, which brings life long impacts.³⁰
- A.4** The effective health care 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 health history, and can take appropriate action immediately. This is why placement stability is so closely linked to healthy development. When a child is looked after by a local authority these responsibilities pass in full or in part to a public body, and a number of problems have the potential to arise. First, there is the problem of knowledge, both factual and intuitive, about the child's medical history and normal state. Then there is the division of responsibility between social worker and foster carer or residential social worker. This makes the effective sharing of relevant and appropriate information important.

- A.5** There is substantial evidence that looked after children 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.
- A.6** Improved health outcomes for looked after children require the focus of health care planning to be on health promotion and attention to environmental factors as well as physical, emotional and mental health needs. Children need to understand their right to good health and to be able to access services. They need the knowledge and skills to communicate and relate to others and to take responsibility for themselves.
- A.7** Specific guidance on care planning arrangements in relation to health is set out at **paragraphs 2.46 to 2.64.**

Education

- A.8** Education, like health, is closely linked to quality of life in adulthood. There is a large body of evidence about the relationship between education and life chances which has informed the current strong policy focus on the education of looked after children. Most parents are very preoccupied with their child's education and educational attainment is highly correlated with parental interest.³¹
- A.9** Children looked after by a local authority suffer from a number of interlocking educational disadvantages. Some are 'external' such as the experience of frequently disrupted schooling and the lack of opportunities to acquire basic skills. Others are pathological, such as low self-esteem. However a crucial factor is the level of expectation of social workers and carers about what the children in their care are capable of and the degree of priority given to educational issues in their daily lives.
- A.10** The importance of education extends to vocational training and employment. Unemployment levels among care leavers have historically been high, related to their poor educational record. Employment encourages self-esteem, provides a clear sense of identity and helps young people develop skills in social relationships and self-presentation.
- A.11** Education is not solely confined to school achievement. It includes the acquisition of skills such as riding a bicycle, swimming, playing a musical instrument and the development of individual special interests and talents. The acquisition of skills improves children's self-confidence which enables them to make further

achievements. Such skills also contribute to improved health, particularly mental health.

- A.12** Specific guidance on care planning arrangements in relation to education is set out at **paragraphs 2.65 to 2.76**.

Family and social relationships

- A.13** The maintenance or creation of a supportive, affectionate and reliable network of relationships is the foundation stone of children'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 who are looked after as these can help to provide continuity and opportunity; enhance self-esteem, resilience and a sense of personal identity; and nurture the sense of being loved and valued. Contact arrangements are a key vehicle for developing and for maintaining important relationships in the child's life.
- A.14** 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 is key to a successful return home. It is important that a child has a sense of emotional permanence through a positive attachment to an adult carer, even if s/he is no longer living with them. Even where a return home is not planned and the child is not being adopted into a permanent new family, enabling the child to have a positive view of birth parents to take with him/her into his/her adult relationships is an important developmental and emotional task. This will require skilled work from the social worker and carers.
- A.15** Relationships with brothers and sisters are often disrupted for a range of reasons and yet are identified by children 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 into care and throughout a care episode, the social worker should ensure that all the people who are significant in a child's life are identified and their details recorded in the care and placement plan.
- A.16** Where children fulfil the relevant criteria, 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 [**Section 23ZB (6)**].

Emotional and behavioural development

- A.17** Emotional and behavioural development is concerned with how the child's social and emotional development can be effectively promoted. It is an important dimension of care planning and reviewing, to ensure that difficulties are being addressed and appropriate supports and services being provided to the child and/or carer to support the child's healthy development.
- A.18** Fifty per cent of looked after children have at least one clinical mental health disorder. The impact of the experiences of a child before s/he starts to be looked after can often have a negative impact on the child's emotional development, and is frequently reflected in his/her behaviour in their placement, schools and other settings. Emotional and behavioural difficulties may be a trigger for a child entering care in the first place and are often a contributory factor in 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. New evidence from neuroscience³² provides clearer evidence of the link between early abuse and neglect and brain development, including the development of social and emotional skills.
- A.19** There is also a clear connection between emotional and behavioural difficulties and school performance either because the child is too depressed or unhappy to access education, because s/he has not had the opportunity to develop effective concentration skills and develop effective relationships with peers, or because s/he lacks the basic skills such as education to access the curriculum.
- A.20** Recognising the greater likelihood that s/he will experience emotional and behavioural problems, each looked after 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. It is important not to accept emotional and behavioural problems as inevitable for a child who is looked after. However, where the child's SDQ result indicates the presence of emotional or behavioural problems, a referral to CAMHS or other relevant local services should be made to secure a diagnosis and ensure that the appropriate treatment and support is place. These services or interventions will be recorded within the care plan.
- A.21** Emotional and behavioural development is not only about difficulties, but is also concerned with how the child's social and emotional development can be effectively promoted. Attention should therefore be paid to the quality of the child's experiences in the placement to ensure that carers are trained to provide appropriate responses to the child so 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 that all

those working with looked after children, such as teachers, youth workers and personal advisers, are also aware of their role in promoting their social and emotional development within mainstream and everyday settings.

- A.22** Further information about emotional and behavioural development is set out in the *Statutory Guidance on Promoting the Health and Wellbeing of Looked After Children*.⁷

Identity

- A.23** This domain concerns the child's growing sense of self as a separate and valued person. It is important for a child who is looked after to know who s/he is and where s/he has come from, and also to understand, as far as s/he is able, why s/he is being looked after away from home. Race, religion, age, gender, sexuality and disability all contribute to a child's sense of identity, as well as feelings of belonging and acceptance by family, peer group and wider society, including other cultural groups. The importance of understanding who we are and where we come from is recognised in good social work practice, for example through undertaking life story work or other direct work.
- A.24** 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 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.
- A.25** Low self-esteem may be an underlying factor in many of the difficulties experienced by children 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 participation in activities outside of the care system.
- A.26** Racial and cultural identity is an important aspect of identity for many looked after children. Dual and multiple heritage children are over-represented in the care system, while in some areas this is not reflected in the workforce or placement. A child in this situation will need to have his/her sense of racial and cultural identity not only preserved but positively promoted. The assessment of each individual child's needs alongside the child's own views will determine the actions which should be put into the care plan to ensure that s/he 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 to maximise his/her talents. Disabled children may also need particular help in developing a positive sense of identity in the face of negative public stereotypes about disability.

Social presentation

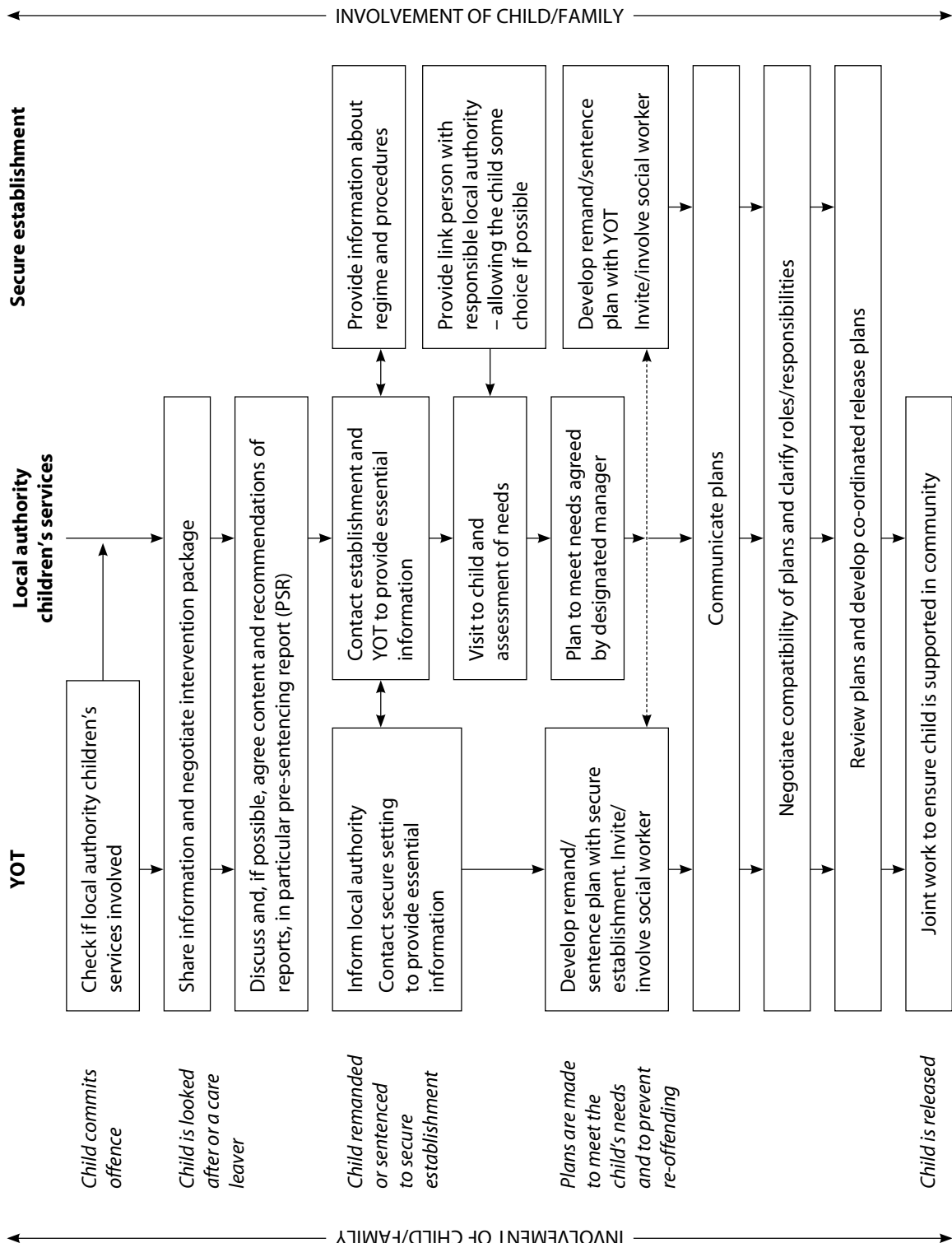
- A.27** Social presentation is an important aspect of how children and adults interact with the family and the outside world. It is important that children have the opportunity to learn a range of social skills, including the way in which they may present themselves in different contexts – family, school, work and social activities with friends. Because of other difficulties the child may be experiencing, insufficient attention may be given to social presentation and social skills, with the result that a child might be ill-equipped to deal with adults and peers in public situations. This has implications for both employment and social opportunities and for the child's self-esteem.
- A.28** The majority of parents concern themselves with how their child is seen by others and discussions about these matters contribute to the child's growing sense of identity and autonomy. For this reason it is important that the child's carer actively promotes this aspect of the child's development. It is also important to ensure that a looked after child 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 his/her own identity and autonomy.
- A.29** Social presentation should be discussed with the child so that s/he has the opportunity to think about what it means for him/her and any particular help s/he may need in this area. Actions and planned outcomes should be set out in the care or placement plan and reviewed regularly.

Self care skills

- A.30** A child growing up in his/her own family is gradually given greater responsibility for looking after him/herself, his/her living space, clothes and possessions and for making decisions about how to spend time and money, although the timing and extent of this may vary across 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.
- A.31** While many responsible authorities have set up independence units to enable young people to practise the skills they will need, this may be too late for those who have not developed the building blocks for independence. Parents work on their child's self care skills from a young age, to ensure that s/he has age-appropriate opportunities to develop age-appropriate skills. This is why self care and competence are relevant for children of all ages.

- A.32** It will be important that milestones for each child, regardless of age, are set in every care plan or pathway plan, with the evaluation of planned outcomes forming part of the review, in order to identify the child's progress and next steps.

Annex 4. A model for joint planning and practice



Annex 5. Changes to care status as a result of criminal justice decisions

In the following table, shading indicates that the child is looked after.

Previous care status	Criminal justice decision	Effect on care status
Care order (section 31, 1989 Act)	PACE detention i.e. transferred from police detention to care of local authority pending appearance in court	No change – child continues to be looked after
	Remand to local authority accommodation i.e. remanded to placement provided by local authority	Responsible authority continues to have a duty for care planning and review in the same way as for all other looked after children
	Court ordered secure remand (COSR) i.e. remanded to SCH or STC pending court hearing	
	Remand to custody i.e. remanded to YOI pending court hearing	
	Community penalty i.e. convicted of offence but penalty served while resident in community	
	Custodial sentence i.e. convicted of offence and to period of detention in secure establishment	

Previous care status	Criminal justice decision	Effect on care status
Voluntary accommodation (section 20, 1989 Act)	PACE detention	No change – child continues to be looked after but under section 21 of 1989 Act responsible authority continues to have duty for care planning and review – as above
	Remand to local authority accommodation	
	COSR	
	Remand to custody	Child ceases to be looked after during period of remand BUT responsible authority has duty to visit
	Community sentence	Child is looked after if in placement provided by local authority, including Intensive Fostering scheme
	Custodial sentence	Child ceases to be looked after during period in custody BUT responsible authority has duty to visit
Not currently looked after	PACE detention	Becomes looked after under section 21 of 1989 Act and responsible authority acquires responsibility for care planning and review
	Remand to local authority accommodation	
	COSR	
	Remand to custody	Not looked after
	Community sentence: Youth Rehabilitation Order (YRO) with Intensive Fostering or local authority residence requirement	Looked after while in placement
	Other community sentence	Not looked after
	Custodial sentence	Not looked after

Care Planning, Placement and Case Review Regulations

STATUTORY INSTRUMENTS

2010 No. 959

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Care Planning, Placement and Case Review (England)
Regulations 2010**

<i>Made</i>	- - - -	<i>24th March 2010</i>
<i>Laid before Parliament</i>		<i>25th March 2010</i>
<i>Coming into force</i>	- -	<i>1st April 2011</i>

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The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 22C(11), 23ZA(3) and (4), 23ZB(1)(a), 23D(2), 23E(1) and (2), 25A(4), 25B(1)(b) and (2)(a), 26(1) and (2), 31A(3), 34(8) and 104(4) of, and paragraphs 12A to 12E, 12F(1)(a), 12G and 19B(2)(b), (3), (7) and (8) of Schedule 2 to, the Children Act 1989(a):

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Care Planning, Placement and Case Review (England) Regulations 2010 and come into force on 1st April 2011.

(a) 1989 c.41. Section 22C is inserted by section 8 of the Children and Young Persons Act 2008 (c.23) ("the 2008 Act"); sections 23ZA and 23ZB are inserted by sections 15 and 16 of the 2008 Act respectively; sections 23D and 23E are inserted by section 3 of the Children (Leaving Care) Act 2000 (c.35) ("the 2000 Act"); section 23D is amended by sections 23(1) and 39 of the 2008 Act and section 23E is amended by sections 22(3) and 39 of the 2008 Act; sections 25A and 25B are inserted by section 10 of the 2008 Act; section 26(1) is amended by section 39 of, and paragraphs 1 and 16(1) and (2) of Schedule 3 to, the 2008 Act and section 26(2) is amended by section 118(1)(a) of the Adoption and Children Act 2002 (c.38) and by section 10(3)(a) of the 2008 Act; section 104(4) is amended by sections 39 and 42 of the 2008 Act. Paragraphs 12A to 12G of Schedule 2 are inserted by section 8(2) and paragraph 4 of Schedule 1 to the 2008 Act; paragraph 19B of Schedule 2 is inserted by section 1 of the 2000 Act and amended by section 39 of, and paragraphs 1 and 27(1) and (3) of Schedule 3 to, the 2008 Act. The powers are expressed to be exercisable by the "appropriate national authority", defined in section 30A (which is inserted by section 39 of the 2008 Act) as meaning, in relation to England, the Secretary of State. For the definition of "prescribed" see section 105(1) of the Children Act 1989 ("the 1989 Act").

(2) These Regulations apply in relation to England only.

Interpretation

2.—(1) In these Regulations—

“the 1989 Act” means the Children Act 1989;

“the 2002 Regulations” means the Fostering Services Regulations 2002^(a);

“appropriate person” means—

(a) P, where C is to live, or lives, with P;

(b) F, where C is to be placed, or is placed, with F;

(c) where C is to be placed, or is placed, in a children’s home, the person who is registered under Part 2 of the Care Standards Act 2000^(b) in respect of that home; or

(d) where C is to be placed, or is placed, in accordance with other arrangements under section 22C(6)(d), the person who will be responsible for C at the accommodation;

“area authority” means the local authority^(c) for the area in which C is placed, or is to be placed, where this is different from the responsible authority;

“C” means a child who is looked after by the responsible authority^(d);

“care plan” means the plan for the future care of C prepared in accordance with Part 2;

“case record” has the meaning given in regulation 49;

“connected person” has the meaning given in regulation 24;

“director of children’s services” means the officer of the responsible authority appointed for the purposes of section 18 of the Children Act 2004^(e);

“F” means a person who is approved as a local authority foster parent^(f) and with whom it is proposed to place C or, as the case may be, with whom C is placed;

“fostering service provider” has the meaning given in regulation 2(1) of the 2002 Regulations;

“full assessment process” has the meaning given in regulation 24(2)(c);

“health plan” has the meaning given in regulation 5(b)(i);

“independent visitor” means the independent person appointed to be C’s visitor under section 23ZB;

“IRO” means the independent reviewing officer appointed for C’s case under section 25A(1);

“nominated officer” means a senior officer of the responsible authority nominated in writing by the director of children’s services for the purposes of these Regulations;

“P” means—

(a) a person who is C’s parent;

(b) a person who is not C’s parent but who has parental responsibility for C; or

(a) S.I. 2002/57, amended by S.I. 2002/865, 2002/2469, 2004/664, 2006/1738, 2007/603, 2008/640, 2009/394 and 2009/1895.

(b) 2000 c.14.

(c) “Local authority” is defined in section 105(1) of the 1989 Act as, in relation to England, “the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London”.

(d) For the meaning of a child who is “looked after” see section 22(1) of the 1989 Act, as amended by section 107 of, and paragraph 19 of Schedule 5 to, the Local Government Act 2000 (c.22), section 2 of the 2000 Act and by section 116(2) of the Adoption and Children Act 2002.

(e) 2004 c.31.

(f) “Local authority foster parent” is defined in section 22C(12) of the 1989 Act as a person who is approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to that Act. The relevant Regulations are the 2002 Regulations.

- (c) where C is in the care of the responsible authority and there was a residence order in force with respect to C immediately before the care order was made, a person in whose favour the residence order was made^(a);

“pathway plan” has the meaning given in section 23E(1)(a);

“personal adviser” means the personal adviser arranged for C under paragraph 19C^(b) of Schedule 2 to the 1989 Act;

“personal education plan” has the meaning given in regulation 5(b)(ii);

“placement” means—

- (i) arrangements made by the responsible authority for C to live with P in accordance with section 22C(2), where C is in the care of the responsible authority, or
- (ii) arrangements made by the responsible authority to provide for C’s accommodation and maintenance by any of the means specified in section 22C(6);

“placement plan” has the meaning given in regulation 9(1)(a);

“R” means the representative of the responsible authority who is appointed to visit C in accordance with arrangements made by them under section 23ZA;

“responsible authority” means the local authority that looks after C;

“special educational needs” and “special educational provision” have the meanings given in section 312 of the Education Act 1996^(c);

“temporary approval” has the meaning given in regulation 24(1); and

“working day” means any day other than—

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

(2) In these Regulations any reference to any document or other record includes any such document or record that is kept or provided in a readily accessible form and includes copies of original documents and electronic methods of recording information.

(3) Save as otherwise appears—

- (a) any reference in these Regulations to a numbered section is a reference to that section in the 1989 Act; and
- (b) any reference in these Regulations to a numbered regulation, Part or Schedule is a reference to that regulation, Part or Schedule in these Regulations.

3. These Regulations do not apply in relation to any child who is looked after by a local authority and who has been placed for adoption under the Adoption and Children Act 2002^(e).

(a) Any reference to a child who is in the care of an authority means a child who is in their care by virtue of a care order, see section 105(1) of the 1989 Act.

(b) Paragraph 19C of Schedule 2 was inserted by section 1 of the 2000 Act.

(c) 1996 c.56. Section 312 was amended by paragraph 23 of Schedule 7, and Schedule 8, to the Education Act 1997 (c.44), paragraphs 57 and 71 of Schedule 30 to the School Standards and Framework Act 1998 (c.31), paragraph 56 of Schedule 9 to the Learning and Skills Act 2000 (c.21), paragraph 3 of Schedule 1 to the Education and Inspections Act 2006 (c.40).

(d) 1971 c.80.

(e) 2002 c.38.

PART 2

Arrangements for looking after a child

Care planning

4.—(1) Where C is not in the care of the responsible authority and a care plan for C has not already been prepared, the responsible authority must assess C's needs for services to achieve or maintain a reasonable standard of health or development, and prepare such a plan.

(2) Except in the case of a child to whom section 31A (*care orders: care plans*) applies^(a), or where paragraph (6) applies, the care plan must be prepared before C is first placed by the responsible authority or, if it is not practicable to do so, within ten working days of the start of the first placement.

(3) When assessing C's needs under paragraph (1), the responsible authority must consider whether C's placement meets the requirements of Part 3 of the 1989 Act.

(4) Unless paragraph (5) applies, the care plan should, so far as is reasonably practicable, be agreed by the responsible authority with—

- (a) any parent of C's and any person who is not C's parent but who has parental responsibility for C, or
- (b) if there is no such person, the person who was caring for C immediately before the responsible authority arranged a placement for C.

(5) Where C is aged 16 or over and agrees to be provided with accommodation under section 20^(b), the care plan should be agreed with C by the responsible authority.

(6) Where C was first placed by the responsible authority before 1st April 2011, the care plan must be prepared as soon as reasonably practicable.

Preparation and content of the care plan

5. The care plan must include a record of the following information—

- (a) the long term plan for C's upbringing ("the plan for permanence"),
- (b) the arrangements made by the responsible authority to meet C's needs in relation to—
 - (i) health, including the information set out in paragraph 1 of Schedule 1 ("the health plan"),
 - (ii) education and training, including, so far as reasonably practicable, the information set out in paragraph 2 of Schedule 1 ("the personal education plan"),
 - (iii) emotional and behavioural development,
 - (iv) identity, with particular regard to C's religious persuasion, racial origin and cultural and linguistic background,
 - (v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 1,
 - (vi) social presentation, and
 - (vii) self-care skills,
- (c) except in a case where C is in the care of the responsible authority but is not provided with accommodation by them by any of the means specified in section 22C, the placement plan,
- (d) the name of the IRO, and

^(a) In the case of a child to whom section 31A applies, the court will set the timetable within which the care plan must be prepared.

^(b) Section 20 of the 1989 Act was amended by section 53(2) of the Children Act 2004 and by sections 139(1) and (3) of, and paragraphs 54 and 59 of Schedule 3 to, the Adoption and Children Act 2002.

- (e) details of the wishes and feelings of the persons listed in section 22(4)(a) about the arrangements referred to in sub-paragraph (b) and the placement plan that have been ascertained and considered in accordance with section 22(4) and (5) and the wishes and feelings of those persons in relation to any change, or proposed change, to the care plan.

6.—(1) The responsible authority must keep C's care plan under review in accordance with Part 6 and, if they are of the opinion some change is required, they must revise the care plan or prepare a new care plan accordingly.

(2) Save as otherwise provided in these Regulations, the responsible authority must not make any significant change to the care plan unless the proposed change has first been considered at a review of C's case.

(3) Subject to paragraph (4), the responsible authority must give a copy of the care plan—

- (a) to C, unless it would not be appropriate to do so having regard to C's age and understanding,
- (b) to P,
- (c) to the IRO,
- (d) where C is to be placed, or is placed, with F, to the fostering service provider that approved F in accordance with the 2002 Regulations,
- (e) where C is to be placed, or is placed, in a children's home, to the person who is registered under Part 2 of the Care Standards Act 2000 in respect of that home, and
- (f) where C is to be placed, or is placed, in accordance with other arrangements under section 22C(6)(d), to the person who will be responsible for C at the accommodation.

(4) The responsible authority may decide not to give a copy of the care plan, or a full copy of the care plan, to P if to do so would put C at risk of significant harm.

Health care

7.—(1) Before C is first placed by them or, if that is not reasonably practicable, before the first review of C's case, the responsible authority must make arrangements for a registered medical practitioner to—

- (a) carry out an assessment of C's state of health, and
- (b) provide a written report of the assessment, addressing the matters specified in paragraph 1 of Schedule 1,
as soon as reasonably practicable.

(2) Paragraph (1) does not apply if, within a period of three months immediately preceding the placement, an assessment of C's state of health has been carried out and the responsible authority has obtained a written report that meets the requirements of that paragraph.

(3) The responsible authority must make arrangements for a registered medical practitioner or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner to review C's state of health and provide a written report of each review, addressing the matters specified in paragraph 1 of Schedule 1—

- (a) at least once in every period of six months before C's fifth birthday, and
- (b) at least once in every period of 12 months after C's fifth birthday.

(4) Paragraphs (1) and (3) do not apply if C refuses consent to the assessment, being of sufficient age and understanding to do so.

(5) The responsible authority must take all reasonable steps to ensure that C is provided with appropriate health care services, in accordance with the health plan, including—

- (a) medical and dental care and treatment, and

(a) The persons listed in that section are: (a) C, (b) any parent of C's and any person who is not C's parent but who has parental responsibility for C, and (c) any other person whose wishes and feelings the responsible authority consider to be relevant.

- (b) advice and guidance on health, personal care and health promotion issues.

Contact with a child in care

8.—(1) This regulation applies if C is in the care of the responsible authority and they have decided under section 34(6) (*refusal of contact as a matter of urgency*) to refuse to allow contact that would otherwise be required by virtue of section 34(1)(a) or an order under section 34 (*parental contact etc. with children in care*).

(2) The responsible authority must immediately give written notification to the following persons of the information specified in paragraph (3) (“the specified information”)—

- (a) C, unless it would not be appropriate to do so having regard to C’s age and understanding,
- (b) P,
- (c) where, immediately before the care order was made, a person had care of C by virtue of an order made in exercise of the High Court’s inherent jurisdiction with respect to children, that person,
- (d) any other person whose wishes and feelings the responsible authority consider to be relevant, and
- (e) the IRO.

(3) The specified information is—

- (a) the responsible authority’s decision,
- (b) the date of the decision,
- (c) the reasons for the decision,
- (d) the duration of the decision (if applicable), and
- (e) remedies available in case of dissatisfaction.

(4) The responsible authority may depart from the terms of any order made under section 34 by agreement with the person in relation to whom the order is made, provided that—

- (a) C, being of sufficient age and understanding, also agrees, and
- (b) written notification of the specified information is given within five working days to the persons listed in paragraph (2).

(5) Where the responsible authority has decided to vary or suspend any arrangements made (otherwise than under an order under section 34) with a view to affording any person contact with C, the responsible authority must immediately give written notification containing the specified information to the persons listed in paragraph (2).

(6) The responsible authority must record any decision made under this regulation in C’s care plan.

PART 3

Placements – general provisions

Placement plan

9.—(1) Subject to paragraphs (2) and (4), before making arrangements in accordance with section 22C for C’s placement, the responsible authority must—

- (a) prepare a plan for the placement (“the placement plan”) which—

(a) Section 34(1) was amended by section 139(1) of, and paragraphs 54 and 64 of Schedule 3 to, the Adoption and Children Act 2002.

- (i) sets out how the placement will contribute to meeting C's needs, and
 - (ii) includes all the matters specified in Schedule 2 as are applicable, having regard to the type of the placement, and
- (b) ensure that—
 - (i) C's wishes and feelings have been ascertained and given due consideration, and
 - (ii) the IRO has been informed.
- (2) If it is not reasonably practicable to prepare the placement plan before making the placement, the placement plan must be prepared within five working days of the start of the placement.
- (3) The placement plan must be agreed with, and signed by, the appropriate person.
- (4) Where the arrangements for C's placement were made before 1st April 2011, the responsible authority must prepare the placement plan as soon as reasonably practicable.

Avoidance of disruption in education

10.—(1) Subject to paragraphs (2) and (3), if C is a registered pupil at a school in the fourth key stage, a decision to make any change to C's placement that would have the effect of disrupting the arrangements made for C's education must not be put into effect until it has been approved by a nominated officer^(a).

(2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) the educational provision made for C at the placement will promote C's educational achievement and is consistent with C's personal education plan,
- (c) the designated teacher^(b) at the school has been consulted, and
- (d) the IRO has been consulted.

(3) Paragraph (1) does not apply in any case where—

- (a) the responsible authority terminates C's placement in accordance with regulation 14(3), or
- (b) it is necessary for any other reason to change C's placement in an emergency,

and in such a case the responsible authority must make appropriate arrangements to promote C's educational achievement as soon as reasonably practicable.

(4) In any case not falling within paragraph (1), but where the responsible authority propose making any change to C's placement that would have the effect of disrupting the arrangements made for C's education or training, the responsible authority must ensure that other arrangements are made for C's education or training that meet C's needs and are consistent with C's personal education plan.

(5) In this regulation—

- (a) "registered pupil" has the meaning given in section 20(7) of the Children and Young Persons Act 2008^(c), and
- (b) "school" has the meaning given in section 4 of the Education Act 1996^(d).

(a) For the definition of "fourth key stage" see paragraph 12D(2) of Schedule 2 to the 1989 Act. Paragraph 12D was inserted by section 8(2) of, and paragraph 4 of Schedule 1 to, the 2008 Act.

(b) The "designated teacher" in the case of a maintained school means the member of staff designated by the governing body in accordance with section 20(1) of the 2008 Act. Academies, City Technology Colleges and City Colleges for the Technology of the Arts are required by their Funding Agreements to have a designated teacher. The Designated Teacher (Looked After Pupils etc.)(England) Regulations 2009 (S.I. 2009/1538) made under section 20(3) of the 2008 Act prescribe the qualifications and experience of the designated teacher.

(c) That is, the meaning given in section 434(5) of the Education Act 1996.

(d) That is, an educational institution, outside the further and higher education sectors, for providing primary and/or secondary education.

Placement out of area*Placement decision*

11.—(1) Subject to paragraphs (3) and (4), a decision to place C outside the area of the responsible authority (including a placement outside England) must not be put into effect until it has been approved by a nominated officer.

(2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) the placement is the most appropriate placement available for C and consistent with C's care plan,
- (c) C's relatives^(a) have been consulted, where appropriate,
- (d) the area authority have been notified, and
- (e) the IRO has been consulted.

(3) In the case of a placement made in an emergency, paragraph (2) does not apply and before approving a decision under paragraph (1) the nominated officer must—

- (a) be satisfied that regulation 9(1)(b)(i) and the requirements of sub-paragraph (2)(b) have been complied with, and
- (b) take steps to ensure that regulation 9(1)(b)(ii) and the requirements set out in sub-paragraphs (2)(c) and (d) are complied with by the responsible authority within five working days of approval of the decision under paragraph (1).

(4) Paragraphs (1) and (2) do not apply to a decision to place C outside the area of the responsible authority with—

- (a) F who is a connected person, or
- (b) F who is approved as a local authority foster parent by the responsible authority.

Placements outside England and Wales

12.—(1) This regulation applies if—

- (a) C is in the care of the responsible authority, and
- (b) the responsible authority make arrangements to place C outside England and Wales in accordance with the provisions of paragraph 19 of Schedule 2 to the 1989 Act (*placement of a child in care outside England and Wales*).

(2) The responsible authority must take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements which would have applied under these Regulations had C been placed in England, are complied with.

(3) The responsible authority must include in the care plan details of the arrangements made by the responsible authority to supervise C's placement.

Notification of placement

13.—(1) Subject to paragraph (3), the responsible authority must give written notification to the persons listed in paragraph (2) of the arrangements for C's placement before the placement is made or, if the placement is made in an emergency, within five working days of the start of the placement, unless it is not reasonably practicable to do so.

(2) The persons referred to in paragraph (1) are—

(a) 'Relative' is defined in section 105(1) of the 1989 Act as 'a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent'.

- (a) C, unless it would not be appropriate to do so having regard to C's age and understanding,
 - (b) P,
 - (c) if C is in the care of the responsible authority, any person who is allowed contact with C under section 34(1) and any person who has contact with C by virtue of an order under section 34,
 - (d) if C is looked after but is not in the care of the responsible authority, any person who has contact with C pursuant to an order made under section 8 (*residence, contact and other orders with respect to children*),
 - (e) any person who was caring for C immediately before the arrangements were made,
 - (f) the Primary Care Trust (or in the case of a child living or to be placed in Wales, the local health board) for the area in which C is living and, if different, for the area in which C is to be placed,
 - (g) C's registered medical practitioner and, where applicable, the registered medical practitioner with whom C is to be registered during the placement,
 - (h) any educational institution attended by, or person providing education or training for, C, and
 - (i) the IRO.
- (3) The responsible authority may decide not to give notification to any of the persons listed in sub-paragraphs (b) to (e) if to do so would put C at risk of significant harm.

Termination of placement by the responsible authority

14.—(1) Subject to paragraphs (3) and (5), the responsible authority may only terminate C's placement following a review of C's case in accordance with Part 6.

(2) Subject to paragraphs (3) and (4), before terminating C's placement, the responsible authority must—

- (a) make other arrangements for C's accommodation, in accordance with section 22C,
- (b) inform the IRO,
- (c) so far as is reasonably practicable, give written notification of their intention to terminate the placement to—
 - (i) all the persons to whom notification of the placement was given under regulation 13,
 - (ii) the person with whom C is placed,
 - (iii) where C is placed in the area of another local authority, that authority.

(3) Where there is an immediate risk of significant harm to C, or to protect others from serious injury, the responsible authority must terminate C's placement, and in those circumstances—

- (a) paragraph (1) does not apply, and
- (b) they must comply with paragraph (2)(a) and (b) as soon as reasonably practicable.

(4) If it is not reasonably practicable to notify any person in accordance with paragraph (2)(c), then the responsible authority must give written notification to that person, within ten working days of the date on which the placement is terminated, of the fact that the placement has been terminated.

(5) This regulation does not apply where C's placement is terminated under regulation 19(c), regulation 23(2) or regulation 25(6), nor where section 22D(a) (*review of child's case before making alternative arrangements for accommodation*) applies.

PART 4

Provision for different types of placement

CHAPTER 1

Placement of a child in care with P

Application

15.—(1) This Chapter applies if C is in the care of the responsible authority and they, acting in accordance with section 22C(2), propose to place C with P.

(2) Nothing in this Chapter requires the responsible authority to remove C from P's care if C is living with P before a placement decision is made about C.

Effect of contact order

16. The responsible authority must not place C with P if to do so would be incompatible with any order made by the court under section 34.

Assessment of P's suitability to care for a child

17. Before deciding to place C with P, the responsible authority must—

- (a) assess the suitability of P to care for C, including the suitability of—
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that C will live,
- (b) take into account all the matters set out in Schedule 3 in making their assessment,
- (c) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the placement will safeguard and promote C's welfare and meet C's needs set out in the care plan, and
- (d) review C's case in accordance with Part 6.

Decision to place a child with P

18.—(1) The decision to place C with P must not be put into effect until it has been approved by a nominated officer, and the responsible authority have prepared a placement plan for C.

(2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) the requirements of regulation 17 have been complied with,
- (c) the placement will safeguard and promote C's welfare, and
- (d) the IRO has been consulted.

Circumstances in which a child may be placed with P before assessment completed

19. Where the nominated officer considers it to be necessary and consistent with C's welfare, the responsible authority may place C with P before their assessment under regulation 17 ("the assessment") is completed provided that they—

- (a) arrange for P to be interviewed in order to obtain as much of the information specified in Schedule 3 about P and the other persons living in P's household who are aged 18 and over as can be readily ascertained at that interview,
- (b) ensure that the assessment and the review of C's case are completed in accordance with regulation 17 within ten working days of C being placed with P, and

- (c) ensure that a decision in accordance with regulation 18 is made and approved within ten working days after the assessment is completed, and—
 - (i) if the decision is to confirm the placement, review the placement plan and, if appropriate amend it, and
 - (ii) if the decision is not to confirm the placement, terminate the placement.

Support for P

20. Where C is placed, or is to be placed, with P, the responsible authority must provide such services and support to P as appear to them to be necessary to safeguard and promote C's welfare and must record details of such services and support in C's care plan.

CHAPTER 2

Placement with local authority foster parents

Interpretation

21.—(1) In this Chapter “registered person” has the same meaning as in the 2002 Regulations^(a).

(2) Where C is placed jointly with two persons each of whom is approved as a local authority foster parent, any reference in these Regulations to a local authority foster parent is to be interpreted as referring equally to both such persons and any requirement to be satisfied by or relating to a particular local authority foster parent must be satisfied by, or treated as relating to, both of them.

Conditions to be complied with before placing a child with a local authority foster parent

22.—(1) This regulation applies where the responsible authority propose to place C with F.

(2) The responsible authority may only place C with F if—

- (a) F is approved by—
 - (i) the responsible authority, or
 - (ii) provided that the conditions specified in paragraph (3) are also satisfied, another fostering service provider,
 - (b) the terms of F's approval are consistent with the proposed placement, and
 - (c) F has entered into a foster care agreement either with the responsible authority or with another fostering service provider in accordance with regulation 28(5)(b) of the 2002 Regulations.
- (3) The conditions referred to in paragraph (2)(a)(ii) are that—
- (a) the fostering service provider by whom F is approved consents to the proposed placement, and
 - (b) where any other local authority currently have a child placed with F, that local authority consents to the proposed placement.

Emergency placement with a local authority foster parent

23.—(1) Where it is necessary to place C in an emergency, the responsible authority may place C with any local authority foster parent who has been approved in accordance with the 2002 Regulations, even if the terms of that approval are not consistent with the placement, provided that the placement is for no longer than six working days.

(a) “Registered person” is defined in regulation 2(1) of the 2002 Regulations.

(2) When the period of six working days referred to in paragraph (1) expires, the responsible authority must terminate the placement unless the terms of that person's approval have been amended to be consistent with the placement.

Temporary approval of relative, friend or other person connected with C

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

- (a) the most appropriate placement for C is with a connected person, notwithstanding that the connected person is not approved as a local authority foster parent, and
- (b) it is necessary for C to be placed with the connected person before the connected person's suitability to be a local authority foster parent has been assessed in accordance with the 2002 Regulations,

they may approve that person as a local authority foster parent for a temporary period not exceeding 16 weeks ("temporary approval") provided that they first comply with the requirements of paragraph (2).

(2) Before making a placement under paragraph (1), the responsible authority must—

- (a) assess the suitability of the connected person to care for C, including the suitability of—
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that C will live,

taking into account all the matters set out in Schedule 4,

- (b) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the proposed arrangements will safeguard and promote C's welfare and meet C's needs set out in the care plan, and
- (c) make immediate arrangements for the suitability of the connected person to be a local authority foster parent to be assessed in accordance with the 2002 Regulations ("the full assessment process") before the temporary approval expires.

(3) In this regulation "connected person" means a relative, friend or other person connected with C.

Expiry of temporary approval

25.—(1) Subject to paragraph (4), the responsible authority may extend the temporary approval of a connected person if—

- (a) it is likely to expire before the full assessment process is completed, or
- (b) the connected person, having undergone the full assessment process, is not approved and seeks a review of the decision in accordance with Regulations made under paragraph 12F(1)(b) of Schedule 2 to the 1989 Act^(a).

(2) In a case falling within paragraph (1)(a), the responsible authority may extend the temporary approval once for a further period of up to eight weeks.

(3) In a case falling within paragraph (1)(b), the responsible authority may extend the temporary approval until the outcome of the review is known.

(4) Before deciding whether to extend the temporary approval in the circumstances set out in paragraph (1), the responsible authority must first—

- (a) consider whether placement with the connected person is still the most appropriate placement available,
- (b) seek the views of the fostering panel established by the fostering service provider in accordance with the 2002 Regulations, and

^(a) See the Independent Review of Determinations (Adoptions and Fostering) Regulations 2009 (S.I. 2009/395).

- (c) inform the IRO.
- (5) A decision to extend temporary approval must be approved by a nominated officer.
- (6) If the period of temporary approval and of any extension to that period expires and the connected person has not been approved as a local authority foster parent in accordance with the 2002 Regulations, the responsible authority must terminate the placement after first making other arrangements for C's accommodation.

Independent fostering agencies – discharge of responsible authority functions

- 26.**—(1) A responsible authority may make arrangements in accordance with this regulation for the duties imposed on it as responsible authority by regulation 14(3) and regulation 22 to be discharged on their behalf by a registered person.
- (2) No arrangements may be made under this regulation unless the responsible authority has entered into a written agreement with the registered person which includes the information set out in paragraph 1 of Schedule 5, and where the responsible authority proposes to make an arrangement under this regulation in relation to a particular child, the written agreement must also include the matters set out in paragraph 2 of Schedule 5.
- (3) The responsible authority must report to the Chief Inspector of Education, Children's Services and Skills any concerns they may have about the services provided by a registered person.

CHAPTER 3

Other arrangements

General duties of the responsible authority when placing a child in other arrangements

- 27.** Before placing C in accommodation in an unregulated setting under section 22C(6)(d), the responsible authority must—
- (a) be satisfied that the accommodation is suitable for C, having regard to the matters set out in Schedule 6,
 - (b) unless it is not reasonably practicable, arrange for C to visit the accommodation, and
 - (c) inform the IRO.

PART 5

Visits by the responsible authority's representative etc.

Frequency of visits

- 28.**—(1) As part of their arrangements for supervising C's welfare, the responsible authority must ensure that their representative ("R") visits C in accordance with this regulation, wherever C is living.
- (2) Subject to paragraphs (3) to (6), the responsible authority must ensure that R visits C—
- (a) within one week of the start of any placement,
 - (b) at intervals of not more than six weeks for the first year of any placement, and
 - (c) thereafter—
 - (i) where the placement is intended to last until C is aged 18, at intervals of not more than three months,
 - (ii) and in any other case, at intervals of not more than six weeks.
- (3) Where regulation 19 applies, the responsible authority must ensure that R visits C—
- (a) at least once a week until the first review carried out in accordance with Part 6, and

- (b) thereafter at intervals of not more than six weeks.
- (4) Where regulation 24 applies, or where an interim care order has been made in relation to C under section 38 (*interim orders*) and C is living with P, the responsible authority must ensure that R visits C—
 - (a) at least once a week until the first review carried out in accordance with Part 6, and
 - (b) thereafter at intervals of not more than four weeks.
- (5) Where a care order has been made in relation to C under section 31 (*care and supervision orders*) and C is living with P, the responsible authority must ensure that R visits C—
 - (a) within one week of the making of the care order, and
 - (b) thereafter at intervals of not more than six weeks.
- (6) Where C is in the care of the responsible authority but another person is responsible for the arrangements under which C is living for the time being (“C’s living arrangements”), the responsible authority must ensure that R visits C—
 - (a) within one week of the start of C’s living arrangements and within one week of any change to C’s living arrangements,
 - (b) at intervals of not more than six weeks for the first year thereafter, and
 - (c) at intervals of not more than three months in any subsequent year.
- (7) In addition to visits in accordance with paragraphs (2) to (6), the responsible authority must ensure that R visits C—
 - (a) whenever reasonably requested to do so by—
 - (i) C,
 - (ii) where paragraphs (2), (3) or (4) apply, the appropriate person, or
 - (iii) where paragraph (5) applies, the person responsible for C’s living arrangements,
 - (b) within one week of first receiving notification under section 30A of the Care Standards Act 2000^(a) (*notification of matters relating to persons carrying on or managing certain establishments or agencies*), where the children’s home in which C is placed for the time being is referred to in that notification.

Conduct of visits

29. On each visit, R must speak to C in private unless—

- (a) C, being of sufficient age and understanding to do so, refuses,
- (b) R considers it inappropriate to do so, having regard to C’s age and understanding, or
- (c) R is unable to do so.

Consequences of visits

30. Where, as the result of a visit carried out in accordance with this Part, R’s assessment is that C’s welfare is not adequately safeguarded and promoted by the placement, the responsible authority must review C’s case in accordance with Part 6.

Advice, support and assistance for the child

31. When making arrangements in accordance with section 23ZA(2)(b) for advice, support and assistance to be available to C between R’s visits, the responsible authority must ensure that—

- (a) the arrangements—
 - (i) are appropriate having regard to C’s age and understanding, and

^(a) 2000 c.14; section 30A was inserted by section 29 of the 2008 Act.

- (ii) give due consideration to C's religious persuasion, racial origin, cultural and linguistic background and to any disability C may have, and
- (b) so far as is reasonably practicable having regard to C's age and understanding, C knows how to seek appropriate advice, support and assistance from them.

PART 6

Reviews of the child's case

General duty of the responsible authority to review the child's case

- 32.**—(1) The responsible authority must review C's case in accordance with this Part.
- (2) The responsible authority must not make any significant change to C's care plan unless the proposed change has first been considered at a review of C's case, unless this is not reasonably practicable.
- (3) Nothing in this Part prevents any review of C's case being carried out at the same time as any other review assessment or consideration of C's case under any other provision.

Timing of reviews

- 33.**—(1) The responsible authority must first review C's case within 20 working days of the date on which C becomes looked after.
- (2) The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months.
- (3) The responsible authority must carry out a review before the time specified in paragraph (1) or (2) if—
- (a) the IRO so requests,
 - (b) regulation 30 applies,
 - (c) C is provided with accommodation under section 21(2)(b) or (c) and a review would not otherwise occur before C ceases to be so provided with accommodation,
 - (d) C is in the care of the responsible authority and is detained in a secure training centre or a young offenders institution, and a review would not otherwise occur before C ceases to be so detained, or
 - (e) C is looked after but is not in the care of the responsible authority and
 - (i) the responsible authority propose to cease to provide accommodation for C, and
 - (ii) accommodation will not subsequently be provided for C by C's parents (or one of them) or any person who is not C's parent but who has parental responsibility for C.

Conduct of reviews

Local authority's policy on reviews

- 34.**—(1) The responsible authority must prepare and implement a written policy regarding the manner in which they will review cases in accordance with this Part.
- (2) The responsible authority must provide a copy of their policy to—
- (a) C, unless it would not be appropriate to do so having regard to C's age and understanding,
 - (b) C's parents, or any person who is not C's parent but who has parental responsibility for C, and
 - (c) any other person whose views the responsible authority consider to be relevant.

Considerations to which the responsible authority must have regard

35. The considerations to which the responsible authority must have regard in reviewing each case are set out in Schedule 7.

The role of the IRO

36.—(1) The IRO must—

- (a) so far as reasonably practicable, attend any meeting held as part of the review (“the review meeting”) and, if attending the review meeting, chair it,
- (b) speak to C in private about the matters to be considered at the review unless C, being of sufficient understanding to do so, refuses or the IRO considers it inappropriate having regard to C’s age and understanding,
- (c) ensure that, so far as reasonably practicable, the wishes and feelings of C’s parents, or any person who is not C’s parent but who has parental responsibility for C, have been ascertained and taken into account, and
- (d) ensure that the review is conducted in accordance with this Part and in particular—
 - (i) that the persons responsible for implementing any decision taken in consequence of the review are identified, and
 - (ii) that any failure to review the case in accordance with this Part or to take proper steps to implement decisions taken in consequence of the review are brought to the attention of an officer at an appropriate level of seniority within the responsible authority.

(2) The IRO may, if not satisfied that sufficient information has been provided by the responsible authority to enable proper consideration of any of the matters in Schedule 7, adjourn the review meeting once for not more than 20 working days, and no proposal considered in the course of the review may be implemented until the review has been completed.

Arrangements for implementing decisions arising out of reviews

37. The responsible authority must—

- (a) make arrangements to implement decisions made in the course, or as a result, of the review, and
- (b) inform the IRO of any significant failure to make such arrangements, or any significant change of circumstances occurring after the review that affects those arrangements.

Records of reviews

38. The responsible authority must ensure that a written record of the review is prepared, and that the information obtained in the course of the review, details of proceedings at the review meeting, and any decisions made in the course, or as a result, of the review are included in C’s case record.

PART 7

Arrangements made by the responsible authority for ceasing to look after a child

Arrangements for ceasing to look after a child who is not an eligible child

39. In any case where—

- (a) C is not in the care of the responsible authority and is not an eligible child^(a), and

(a) “Eligible child” is defined in paragraph 19B of Schedule 2 to the 1989 Act.

- (b) C's circumstances have changed such that the responsible authority are likely to cease to provide C with accommodation

the care plan must include details of the advice, assistance and support that the responsible authority intend to provide for C when C ceases to be looked after by them.

Eligible children

Meaning of eligible child

40.—(1) For the purposes of paragraph 19B(2)(b) of Schedule 2 to the 1989 Act (*meaning of eligible child*), the prescribed period is 13 weeks and the prescribed age is 14.

(2) For the purposes of paragraph 19B(3)(b) of that Schedule, if C is a child to whom regulation 48 applies, C is not an eligible child despite falling within paragraph 19B(2) of that Schedule.

General duties

41. If C is an eligible child, the responsible authority must —

- (a) assess C's needs in accordance with regulation 42, and
- (b) prepare C's pathway plan, in accordance with regulation 43.

Assessment of needs

42.—(1) The responsible authority must complete the assessment of C's needs in accordance with paragraph 19B(4) of Schedule 2 to the 1989 Act not more than three months after the date on which C reaches the age of 16 or becomes an eligible child after that age.

(2) In carrying out their assessment of C's likely needs when C ceases to be looked after, the responsible authority must take account of the following considerations—

- (a) C's state of health (including physical, emotional and mental health) and development,
- (b) C's continuing need for education, training or employment,
- (c) the support that will be available to C from C's parents and other connected persons,
- (d) C's actual and anticipated financial resources and capacity to manage personal finances independently,
- (e) the extent to which C possesses the practical and other skills necessary for independent living,
- (f) C's need for continuing care, support and accommodation,
- (g) the wishes and feelings of—
 - (i) C,
 - (ii) any parent of C's and any person who is not C's parent but who has parental responsibility for C,
 - (iii) the appropriate person,
- (h) the views of—
 - (i) any person or educational institution that provides C with education or training and, if C has a statement of special educational needs, the local authority who maintain the statement (if different)(a),
 - (ii) the IRO,
 - (iii) any person providing health (whether physical, emotional or mental health) or dental care or treatment to C,
 - (iv) the personal adviser appointed for C, and

(a) "Statement of special educational needs" is defined in section 324 of the Education Act 1996.

- (v) any other person whose views the responsible authority, or C, consider may be relevant.

The pathway plan

43.—(1) The pathway plan must be prepared as soon as possible after the assessment of C's needs and must include, in particular—

- (a) C's care plan, and
- (b) the information referred to in Schedule 8.

(2) The pathway plan must, in relation to each of the matters referred to in paragraphs 2 to 10 of Schedule 8, set out—

- (a) the manner in which the responsible authority propose to meet C's needs, and
- (b) the date by which, and by whom, any action required to implement any aspect of the plan will be carried out.

Functions of the personal adviser

44. The personal adviser's functions in relation to C are to—

- (a) provide advice (including practical advice) and support,
- (b) participate in reviews of C's case carried out under Part 6,
- (c) liaise with the responsible authority in the implementation of the pathway plan,
- (d) co-ordinate the provision of services and take reasonable steps to ensure C makes use of such services,
- (e) remain informed about C's progress and wellbeing, and
- (f) maintain a written record of their contacts with C.

PART 8

Independent reviewing officers and independent visitors

Additional functions of independent reviewing officers

45.—(1) The IRO must ensure that, having regard to C's age and understanding, C has been informed by the responsible authority of the steps C may take under the 1989 Act and in particular, where appropriate, of—

- (a) C's rights to apply, with leave, for a section 8 order (*residence, contact and other orders with respect to children*) and, where C is in the care of the responsible authority, to apply for the discharge of the care order, and
- (b) the availability of the procedure established by them under section 26(3)(a) for considering any representations (including complaints) C may wish to make about the discharge by the responsible authority of their functions, including the availability of assistance to make such representations under section 26A(b) (*advocacy services*).

(2) If C wishes to take legal proceedings under the 1989 Act, the IRO must—

- (a) establish whether an appropriate adult is able and willing to assist C to obtain legal advice or bring proceedings on C's behalf, and
- (b) if there is no such person, assist C to obtain such advice.

(3) In the following circumstances the IRO must consider whether it would be appropriate to refer C's case to an officer of the Children and Family Court Advisory and Support Service—

(a) Amended by section 117(2) and (3) of the 2002 Act.
 (b) Inserted by section 119 of the 2002 Act.

- (a) in the opinion of the IRO, the responsible authority have failed in any significant respect to—
 - (i) prepare C's care plan in accordance with these Regulations,
 - (ii) review C's case in accordance with these Regulations, or effectively implement any decision taken in consequence of a review,
 or are otherwise in breach of their duties to C in any material respect, and
 - (b) having drawn the failure or breach to the attention of persons at an appropriate level of seniority within the responsible authority, it has not been addressed to the satisfaction of the IRO within a reasonable period of time.
- (4) When consulted by the responsible authority about any matter concerning C, or when informed of any matter relating to C in accordance with these Regulations, the IRO must—
- (a) ensure that the responsible authority have ascertained and, subject to C's age and understanding, given due consideration to, C's wishes and feelings concerning the matter in question, and
 - (b) consider whether to request a review of C's case.

Qualifications and experience of independent reviewing officers

46.—(1) The IRO must be registered as a social worker in a register maintained by the General Social Care Council or by the Care Council for Wales under section 56 of the Care Standards Act 2000^(a), or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(2) The IRO must have sufficient relevant social work experience with children and families to perform the functions of an independent reviewing officer set out in section 25B(1) and under these Regulations in an independent manner and having regard to C's best interests.

(3) The responsible authority must not appoint any of the following as the IRO—

- (a) a person involved in preparing C's care plan or the management of C's case,
- (b) R,
- (c) C's personal adviser,
- (d) a person with management responsibilities in relation to a person mentioned in sub-paragraphs (a) to (c), or
- (e) a person with control over the resources allocated to the case.

Independent visitors

47. A person appointed by the responsible authority as an independent visitor under section 23ZB(1) is to be regarded as independent of that authority where the person appointed is not connected with the responsible authority by virtue of being—

- (a) a member of the responsible authority or any of their committees or sub-committees, whether elected or co-opted,
- (b) an officer of the responsible authority employed in relation to the exercise of the functions referred to in section 18(2) of the Children Act 2004^(b), or
- (c) a spouse, civil partner or other person (whether of different sex or the same sex) living in the same household as the partner of a person falling within sub-paragraph (a) or (b).

^(a) 2000 c.14.

^(b) Section 18(2) is amended by sections 16(1), (2)(a) and (b) and 103(2) of, and Schedule 3, Part 2 to, the Childcare Act 2006 (c.21), and by section 2 of, and Schedule 1 paragraphs 264 and 266 to, the National Health Service (Consequential Provisions) Act 2006 (c.43).

PART 9

Miscellaneous

Application of these Regulations with modifications to short breaks

48.—(1) In the circumstances set out in paragraph (2) these Regulations apply with the modifications set out in paragraph (3).

(2) The circumstances are that—

- (a) C is not in the care of the responsible authority,
- (b) the responsible authority have arranged to place C in a series of short-term placements with the same person or in the same accommodation (“short breaks”), and
- (c) the arrangement is such that—
 - (i) no single placement is intended to last for longer than 17 days,
 - (ii) at the end of each such placement, C returns to the care of C’s parent or a person who is not C’s parent but who has parental responsibility for C, and
 - (iii) the short breaks do not exceed 75 days in total in any period of 12 months.

(3) The modifications are that—

- (a) regulations 5 and 9 do not apply, but instead the care plan must set out the arrangements made to meet C’s needs with particular regard to—
 - (i) C’s health and emotional and behavioural development, in particular in relation to any disability C may have,
 - (ii) promoting contact between C and C’s parents and any other person who is not C’s parent but who has parental responsibility for C, during any period when C is placed,
 - (iii) C’s leisure interests, and
 - (iv) promoting C’s educational achievement,and must include the name and address of C’s registered medical practitioner, and the information set out in paragraph 3 of Schedule 2, where appropriate,
- (b) regulations 7, 13 and 49(2)(b) do not apply,
- (c) regulation 28(2) does not apply, but instead the responsible authority must ensure that R visits C on days when C is in fact placed, at regular intervals to be agreed with the IRO and C’s parents (or any person who is not C’s parent but who has parental responsibility for C) and recorded in the care plan before the start of the first placement, and in any event—
 - (i) the first visit must take place within three months of the start of the first placement, or as soon as practicable thereafter, and
 - (ii) subsequent visits must take place at intervals of not more than six months, for as long as the short breaks continue,
- (d) regulation 33 does not apply, but instead—
 - (i) the responsible authority must first review C’s case within three months of the start of the first placement, and
 - (ii) the second and subsequent reviews must be carried out at intervals of not more than six months.

Records

Establishment of records

49.—(1) The responsible authority must establish and maintain a written case record for C (“C’s case record”), if one is not already in existence.

(2) The case record must include—

- (a) C’s care plan, including any changes made to the care plan and any subsequent plans,
- (b) reports obtained under regulation 7,
- (c) any other document created or considered as part of any assessment of C’s needs, or of any review of C’s case,
- (d) any court order relating to C,
- (e) details of any arrangements that have been made by the responsible authority with any other local authority or with an independent fostering agency under regulation 26 and Schedule 5, or with a provider of social work services, under which any of the responsible authority’s functions in relation to C are discharged by that local authority or independent fostering agency or provider of social work services.

Retention and confidentiality of records

50.—(1) The responsible authority must retain C’s case record either—

- (a) until the seventy-fifth anniversary of C’s birth, or
- (b) if C dies before attaining the age of 18, for fifteen years beginning with the date of C’s death.

(2) The responsible authority must secure the safe keeping of C’s case record and take any necessary steps to ensure that information contained in it is treated as confidential subject only to—

- (a) any provision of, or made under or by virtue of, a statute under which access to such a record or information may be obtained or given,
- (b) any court order under which access to such a record or information may be obtained or given.

Revocations

51. The Regulations set out in Schedule 9 are revoked.

24th March 2010

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families

SCHEDULES

SCHEDULE 1

Regulation 5

Care plans

Information to be included in the health plan

- 1.—(1) C's state of health including C's physical, emotional and mental health.
- (2) C's health history including, so far as practicable, C's family's health history.
- (3) The effect of C's health and health history on C's development.
- (4) Existing arrangements for C's medical and dental care including—
 - (a) routine checks of C's general state of health, including dental health,
 - (b) treatment for, and monitoring of, identified health (including physical, emotional and mental health) or dental care needs,
 - (c) preventive measures such as vaccination and immunisation,
 - (d) screening for defects of vision or hearing, and
 - (e) advice and guidance on promoting health and effective personal care.
- (5) Any planned changes to existing arrangements.
- (6) The role of the appropriate person, and of any other person who cares for C, in promoting C's health.

Information to be included in the personal education plan

- 2.—(1) C's educational and training history, including information about educational institutions attended and C's attendance and conduct record, C's academic and other achievements, and C's special educational needs, if any.
- (2) Existing arrangements for C's education and training, including details of any special educational provision and any other provision made to meet C's particular educational or training needs, and to promote C's educational achievement.
- (3) Any planned changes to existing arrangements for C's education or training and, where any changes to the arrangements are necessary, provision made to minimise disruption to that education or training.
- (4) C's leisure interests.
- (5) The role of the appropriate person, and of any other person who cares for C, in promoting C's educational achievements and leisure interests.

Family and social relationships

- 3.—(1) If C has a sibling for whom the responsible authority or another authority are providing accommodation, and the children have not been placed together, the arrangements made to promote contact between them, so far as is consistent with C's welfare.
- (2) If C is looked after by, but is not in the care of, the responsible authority, details of any order relating to C made under section 8.
- (3) If C is in the care of the responsible authority, details of any order relating to C made under section 34 (*parental contact etc with children in care*).
- (4) Any other arrangements made to promote and maintain contact in accordance with paragraph 15 of Schedule 2 of the 1989 Act, so far as is reasonably practicable and consistent with C's welfare, between C and—

- (a) any parent of C's and any person who is not C's parent but who has parental responsibility for C, and
 - (b) any other connected person.
- (5) Where section 23ZB(1) applies, the arrangements made to appoint an independent visitor for C or, if section 23ZB(6) applies (*appointment of independent visitor not made where child objects*), that fact.

SCHEDULE 2

Regulation 9

Matters to be dealt with in the placement plan

Information to be included in C's placement plan

- 1.—(1) — How on a day to day basis C will be cared for and C's welfare will be safeguarded and promoted by the appropriate person.
- (2) Any arrangements made for contact between C and any parent of C's and any person who is not C's parent but who has parental responsibility for C, and between C and any other connected person including, if appropriate—
- (a) the reasons why contact with any such person would not be reasonably practicable or would not be consistent with C's welfare,
 - (b) if C is not in the care of the responsible authority, details of any order made under section 8,
 - (c) if C is in the care of the responsible authority, details of any order relating to C made under section 34,
 - (d) the arrangements for notifying any changes in the arrangements for contact.
- (3) The arrangements made for C's health (including physical, emotional and mental health) and dental care including—
- (a) the name and address of C's registered medical and dental practitioners and, where applicable, any registered medical or dental practitioner with whom C is to be registered following the placement,
 - (b) any arrangements for the giving or withholding of consent to medical or dental examination or treatment for C.
- (4) The arrangements made for C's education and training including—
- (a) the name and address of any school at which C is a registered pupil,
 - (b) the name of the designated teacher at the school (if applicable),
 - (c) the name and address of any other educational institution that C attends, or of any other person who provides C with education or training,
 - (d) where C has a statement of special educational needs, details of the local authority that maintains the statement.
- (5) The arrangements made for R to visit C in accordance with Part 5, the frequency of visits and the arrangements made for advice, support and assistance to be available to C between visits in accordance with regulation 31.
- (6) If an independent visitor is appointed, the arrangements made for them to visit C.
- (7) The circumstances in which the placement may be terminated and C removed from the appropriate person's care in accordance with regulation 14.
- (8) The name and contact details of—
- (a) the IRO,
 - (b) C's independent visitor (if one is appointed),
 - (c) R, and

- (d) if C is an eligible child, the personal adviser appointed for C.

Additional information to be included where C is placed with P

2.—(1) Details of support and services to be provided to P during the placement.

(2) The obligation on P to notify the responsible authority of any relevant change in circumstances, including any intention to change address, any changes in the household in which C lives, and of any serious incident involving C.

(3) The obligation on P to ensure that any information relating to C or C's family or any other person given in confidence to P in connection with the placement is kept confidential, and that such information is not disclosed to any person without the consent of the responsible authority.

(4) The circumstances in which it is necessary to obtain the prior approval of the responsible authority for C to live in a household other than P's household.

(5) The arrangements for requesting a change to the placement plan.

(6) The circumstances in which the placement will be terminated in accordance with regulation 19(c)(ii).

Additional information to be included where C is placed with F, in a children's home or in other arrangements

3.—(1) The type of accommodation to be provided, the address and, where C is placed under section 22C(6)(d), the name of the person who will be responsible for C at that accommodation on behalf of the responsible authority (if any).

(2) C's personal history, religious persuasion, cultural and linguistic background, and racial origin.

(3) Where C is not in the care of the responsible authority—

(a) the respective responsibilities of the responsible authority and C's parents, or any person who is not C's parent but who has parental responsibility for C,

(b) any delegation of responsibility to the responsible authority for C's day to day care there has been by C's parents, or any person who is not C's parent but who has parental responsibility for C,

(c) the expected duration of the arrangements and the steps which should be taken to bring the arrangements to an end, including arrangements for C to return to live with C's parents, or any person who is not C's parent but who has parental responsibility for C, and

(d) where C is aged 16 or over and agrees to being provided with accommodation under section 20, that fact.

(4) The circumstances in which it is necessary to obtain in advance the responsible authority's approval for C to take part in school trips or to stay overnight away from the placement.

(5) The responsible authority's arrangements for the financial support of C during the placement.

(6) Where C is placed with F, the obligation on F to comply with the terms of the foster care agreement made under regulation 28(5) of the 2002 Regulations.

SCHEDULE 3

Regulation 17

Matters to be taken into account when assessing the suitability of P to care for C

1. In respect of P—

- (a) P's capacity to care for children and in particular in relation to C to—

- (i) provide for C's physical needs and appropriate medical and dental care,
- (ii) protect C adequately from harm or danger, including from any person who presents a risk of harm to C,
- (iii) ensure that the home environment is safe for C,
- (iv) ensure that C's emotional needs are met and C is provided with a positive sense of self, including any particular needs arising from C's religious persuasion, racial origin and cultural and linguistic background, and any disability C may have,
- (v) promote C's learning and intellectual development through encouragement, cognitive stimulation and the promotion of educational success and social opportunities,
- (vi) enable C to regulate C's emotions and behaviour, including by modelling appropriate behaviour and interactions with others, and
- (vii) provide a stable family environment to enable C to develop and maintain secure attachments to P and other persons who provide care for C,
- (b) P's state of health including P's physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems,
- (c) P's family relationships and the composition of P's household, including particulars of—
 - (i) the identity of all other members of the household, including their age and the nature of their relationship with P and with each other, including any sexual relationship,
 - (ii) any relationship with any person who is a parent of C,
 - (iii) other adults not being members of the household who are likely to have regular contact with C, and
 - (iv) any current or previous domestic violence between members of the household, including P,
- (d) P's family history, including—
 - (i) particulars of P's childhood and upbringing including the strengths and difficulties of P's parents or other persons who cared for P,
 - (ii) P's relationships with P's parents and siblings, and their relationships with each other,
 - (iii) P's educational achievement and any specific learning difficulty or disability,
 - (iv) a chronology of significant life events, and
 - (v) particulars of other relatives and their relationships with C and P,
- (e) particulars of any criminal offences of which P has been convicted or in respect of which P has been cautioned,
- (f) P's past and present employment and other sources of income, and
- (g) the nature of the neighbourhood in which P's home is situated and resources available in the community to support C and P.

2. In respect of members of P's household aged 18 and over, so far as is practicable, all the particulars specified in paragraph 1 except sub-paragraphs (d), (f) and (g).

SCHEDULE 4

Regulation 24

Matters to be taken into account when assessing the suitability of a connected person to care for C

1. In respect of the connected person—

- (a) the nature and quality of any existing relationship with C,

- (b) their capacity to care for children and in particular in relation to C to—
 - (i) provide for C’s physical needs and appropriate medical and dental care,
 - (ii) protect C adequately from harm or danger including from any person who presents a risk of harm to C,
 - (iii) ensure that the accommodation and home environment is suitable with regard to the age and developmental stage of C,
 - (iv) promote C’s learning and development, and
 - (v) provide a stable family environment which will promote secure attachments for C, including promoting positive contact with P and other connected persons, unless to do this is not consistent with the duty to safeguard and promote C’s welfare,
- (c) their state of health including their physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems,
- (d) their family relationships and the composition of their household, including particulars of—
 - (i) the identity of all other members of the household, including their age and the nature of their relationship with the connected person and with each other, including any sexual relationship,
 - (ii) any relationship with any person who is a parent of C,
 - (iii) any relationship between C and other members of the household
 - (iv) other adults not being members of the household who are likely to have regular contact with C, and
 - (v) any current or previous domestic violence between members of the household, including the connected person,
- (e) their family history, including—
 - (i) particulars of their childhood and upbringing including the strengths and difficulties of their parents or other persons who cared for them,
 - (ii) their relationships with their parents and siblings, and their relationships with each other,
 - (iii) their educational achievement and any specific learning difficulty or disability,
 - (iv) a chronology of significant life events, and
 - (v) particulars of other relatives and their relationships with C and the connected person,
- (f) particulars of any criminal offences of which they have been convicted or in respect of which they have been cautioned,
- (g) their past and present employment and other sources of income, and
- (h) the nature of the neighbourhood in which their home is situated and resources available in the community to support C and the connected person.

SCHEDULE 5

Regulation 26

Agreement with an independent fostering agency relating to the discharge of the responsible authority’s functions

1. The agreement must contain the following information—

- (1) the services to be provided to the responsible authority by the registered person,
- (2) the arrangements for the selection by the responsible authority of F from those approved by the registered person,

- (3) a requirement for the registered person to submit reports to the responsible authority on any placements as may be required by the responsible authority, and
- (4) the arrangements for the termination of the agreement.

2. Where the agreement relates to a particular child, it must also contain the following information—

- (1) F's details,
- (2) details of any services that C is to receive and whether the services are to be provided by the responsible authority or by the registered person,
- (3) the terms (including as to payment) of the proposed placement agreement,
- (4) the arrangements for record keeping about C and for the return of records at the end of the placement,
- (5) a requirement for the registered person to notify the responsible authority immediately in the event of any concerns about the placement, and
- (6) whether, and on what basis, other children may be placed with F.

SCHEDULE 6

Regulation 27

Matters to be considered before placing C in accommodation in an unregulated setting under section 22(6)(d)

1. In respect of the accommodation, the—
 - (a) facilities and services provided,
 - (b) state of repair,
 - (c) safety,
 - (d) location,
 - (e) support,
 - (f) tenancy status, and
 - (g) the financial commitments involved for C and their affordability.
2. In respect of C, C's—
 - (a) views about the accommodation,
 - (b) understanding of their rights and responsibilities in relation to the accommodation, and
 - (c) understanding of funding arrangements.

SCHEDULE 7

Regulation 35

Considerations to which the responsible authority must have regard when reviewing C's case

1. The effect of any change in C's circumstances since the last review, in particular of any change made by the responsible authority to C's care plan, whether decisions taken at the last review have been successfully implemented, and if not, the reasons for that.
2. Whether the responsible authority should seek any change in C's legal status.
3. Whether there is a plan for permanence for C.
4. The arrangements for contact and whether there is any need for changes to the arrangements in order to promote contact between C and P, or between C and other connected persons.

5. Whether C's placement continues to be the most appropriate available, and whether any change to the placement agreement or any other aspects of the arrangements made to provide C with accommodation is, or is likely to become, necessary or desirable before the next review of C's case.

6. C's educational needs, progress and development and whether any change to the arrangements for C's education or training is, or is likely to become, necessary or desirable to meet C's particular needs and to promote C's educational achievement before the next review of C's case, having regard to the advice of any person who provides C with education or training, in particular the designated teacher of any school at which C is a registered pupil.

7. C's leisure interests.

8. The report of the most recent assessment of C's state of health obtained in accordance with regulation 8 and whether any change to the arrangements for C's health care is, or is likely to become, necessary or desirable before the next review of C's case, having regard to the advice of any health care professional received since the date of that report, in particular C's registered medical practitioner.

9. Whether C's needs related to C's identity are being met and whether any particular change is required, having regard to C's religious persuasion, racial origin and cultural background.

10. Whether the arrangements made in accordance with regulation 31 continue to be appropriate and understood by C.

11. Whether any arrangements need to be made for the time when C will no longer be looked after by the responsible authority.

12. C's wishes and feelings, and the views of the IRO, about any aspect of the case and in particular about any changes the responsible authority has made since the last review or proposes to make to the C's care plan.

13. Where regulation 28(3) applies, the frequency of R's visits.

SCHEDULE 8

Regulation 43

Matters to be dealt with in the pathway plan

1. The name of C's personal adviser.
2. The nature and level of contact and personal support to be provided to C, and by whom.
3. Details of the accommodation C is to occupy when C ceases to be looked after.
4. The plan for C's continuing education or training when C ceases to be looked after.
5. How the responsible authority will assist C in obtaining employment or other purposeful activity or occupation.
6. The support to be provided to enable C to develop and sustain appropriate family and social relationships.
7. A programme to develop the practical and other skills C needs to live independently.
8. The financial support to be provided to enable C to meet accommodation and maintenance costs.
9. C's health care needs, including any physical, emotional or mental health needs and how they are to be met when C ceases to be looked after.

10. The responsible authority's contingency plans for action to be taken in the event that the pathway plan ceases to be effective for any reason.

SCHEDULE 9

Regulation 51

Revocations

The Regulations set out in the table are revoked—

<i>Regulations Revoked</i>	<i>Series number</i>
Contact with Children Regulations 1991	SI 1991/891
Definition of Independent Visitors (Children) Regulations 1991	SI 1991/892
Placement of Children with Parents etc Regulations 1991	SI 1991/893

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about care planning for looked after children (i.e. children who are looked after by a local authority (LA), whether or not they are in the care of the LA by virtue of a care order), and associated matters. They come into force on 1st April 2011.

They are made under new provisions in the Children Act 1989 (the 1989 Act) - sections 22C, 23ZA, 23ZB, 25A, 25B, and paragraphs 12A-E of Schedule 2 - inserted by the Children and Young Persons Act 2008 (the 2008 Act), and under sections 23D, 23E, 26 and 104 of the 1989 Act, which were amended by the 2008 Act. They are also, in part, consolidating regulations which revoke and replace provisions in earlier regulations dealing with care planning.

Part 2 deals with the LA's arrangements for looking after the child. It prescribes when the LA's plan for the care of the child (the care plan) must be produced (*regulation 4*), its content (*regulation 5*) and makes provision for the LA to revise the plan and provide copies (*regulation 6*). It makes provision for an assessment of the child's health, and for the provision of health care (*regulation 7*). It sets out the steps to be followed when a LA makes a decision under section 34(6) of the 1989 Act to refuse to allow contact with a child (*regulation 8*).

Part 3 contains general provisions about placements. It contains provisions about the placement plan to be prepared by the LA (*regulation 9*), about steps to be taken to avoid disruption of a child's education as a result of a change in placement (*regulation 10*), special provisions about placements outside England and outside England and Wales (*regulations 11 and 12*), provision about notification of a placement (*regulation 13*) and about the circumstances in which a placement may be terminated (*regulation 14*).

Part 4 makes provision about particular types of placement – with parents (*regulations 15 to 20*), with local authority foster parents (*regulations 21 to 26*) and about other arrangements under section 22C(6)(d) of the 1989 Act (*regulation 27*).

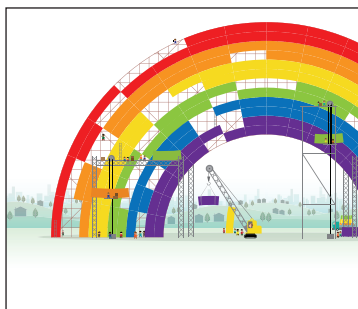
Part 5 prescribes arrangements for a child to be visited by a representative of the LA, the frequency, conduct and consequences of such visits (*regulations 28 to 30*), and the advice, support and assistance that must be made available to the child between visits (*regulation 31*).

Part 6 contains provisions about the LA's reviews of the child's case – their general responsibility for carrying out reviews (*regulation 32*), the timing and conduct of reviews, including the role of the Independent Reviewing Officer (*regulations 33 to 36*) and arrangements for implementing decisions and keeping records of reviews (*regulations 37 and 38*).

Part 7 sets out arrangements to be made by the LA for ceasing to look after a child. This part is a re-enactment of provisions in the Children (Leaving Care) (England) Regulations 2001 relating to eligible children. An 'eligible child' is defined in paragraph 19B of Schedule 2 to the 1989 Act, and in regulation 41 of these Regulations, and is a child who is looked after by a LA, is aged 16 or 17, and has been looked after by a LA for a total of at least 13 weeks beginning after the age of 14 and ending after the age of 16.

Part 8 deals with the additional functions, qualifications and experience of Independent Reviewing Officers (*regulations 45 and 46*) and with the definition of an independent visitor appointed under section 23ZB of the 1989 Act (*regulation 47*).

Part 9 deals with miscellaneous matters including the application of the Regulations to short break placements, record keeping, and consequential revocations.



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