



THE SCOTTISH OFFICE

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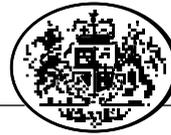
# *Scotland's Children*

The Children (Scotland) Act 1995  
Regulations and Guidance

Volume 2

**Children Looked After by Local  
Authorities**

***The Children (Scotland) Act 1995  
Regulations and Guidance  
Volume 2***



THE SCOTTISH OFFICE

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# ***The Children (Scotland) Act 1995 Regulations and Guidance***

***Volume 2***

***Children Looked After by Local Authorities***

*Social Work Services Group*

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*Guidance*

# **Local Authority Responsibilities for Children who are Looked After**

## **Introduction**

1. Children are looked after by local authorities when they are *Section 17*
  - (a) provided with accommodation under section 25 by local authorities
  - or
  - (b) subject to a supervision requirement made by a children's hearing *Section 70*
  - or
  - (c) subject to an Order, authorisation or warrant according to which they have responsibilities in respect of the child under chapters 2, 3 or 4 of Part II of the Act. This may include a child protection order, a child assessment order, an authorisation from a justice of the peace to remove a child to a place of safety or maintain a child in a place of safety, removal to a place of safety by a police constable, a warrant to keep a child in a place of safety made by a children's hearing or a sheriff, or a parental responsibilities order which gives the local authority responsibilities towards the child
  - or
  - (d) living in Scotland but in respect of whom local authorities have responsibilities under the Children (Reciprocal Enforcement of Prescribed Orders etc. (England and Wales and Northern Ireland)) (Scotland) Regulations 1996. *Section 33(1)*
2. Local authorities have a range of statutory duties towards a child looked after by them *Section 17*
  - to safeguard and promote the child's welfare, taking the welfare of the child as their paramount concern
  - to make use of services that would be available for children were they cared for by their parents
  - to take steps to promote regular and direct contact between a child who is looked after and any person with parental responsibilities, so far as is practicable, appropriate and consistent with the duty to safeguard the child's welfare
  - to provide advice and assistance with a view to the time when the child is no longer looked after
  - to find out and have regard to the views of the child, his parents and any other relevant person, so far as is practicable when making decisions about a child whom they look after
  - to take account so far as is practicable of the child's religious persuasion, racial origin and cultural and linguistic background.

*Section 17(5)* Authorities may deviate from complying with these duties only when it is necessary to protect members of the public from serious harm, and then only to the extent required to achieve such protection for the public.

### **Making Arrangements to Look After the Child**

*Regulation 3* 3. Before looking after a child, or where this is not reasonably practicable, as soon as is reasonably practicable thereafter, the local authority must make an immediate and long-term plan which will safeguard and promote the welfare of the child.

### **Assessing the needs of the child**

4. The gathering of information is the first step in assessing the need for a child to be looked after and is the foundation for future action. Assessment aims to identify the needs and problems which face the child and other members of the family and their potential for relief, reduction or change. It should highlight ways in which problems can be addressed, needs can be met and strengths can be built upon.

5. The information outlined in Schedule 1 of the regulations is the minimum that must be collected for a child who is to be looked after away from home but further information may be needed depending on the circumstances of the child and his or her family. A multi-disciplinary assessment is usually best able to provide a full picture of the child's needs. Usually it will not be apparent, until after the assessment has taken place, whether the child will be looked after at home. Where this is the case, collection of the information in Schedule 1 is not mandatory but much of it will be necessary to plan for the child.

6. The assessment process should involve parents, or anyone else who has recently had care of the child. Where children and families are known to the social work department, there will be some information in case records but previous information will need updating to respond to a fresh situation.

7. The process of collecting information should minimise as far as possible the disruption to the child's life and should, where possible, be undertaken while the child is still living in the family home. The decision to carry out an assessment away from the child's home will normally depend on

- the risk of abuse or harm occurring to the child, or continuing to occur, if he or she remains at home
- the danger posed by the child either to him or herself, for example through continued self-damaging behaviour, or to others at home or in the community, if the child continues to live at home
- the extent to which other family members are likely to refuse to participate in or hinder the assessment, or unduly influence the child. Where this is a factor, consideration might be given to applying for a child assessment order
- the extent to which the family situation has broken down.

An assessment carried out when a child is removed from home is bound to reflect the child's reaction to a new situation. This may differ in significant respects from behaviour at home.

8. The information collected should be evaluated to assess
- the specific needs or difficulties which gave grounds for concern, or which are revealed as a result of the assessment process. The assessment should focus on the nature of the needs or difficulties, the possible reasons for them, and the likelihood of improving the child's situation or behaviour either through looking after the child or through any alternative forms of action
  - the availability of care, support, and guidance for the child from the family (including the extended family) which should be considered along, where applicable, with the family's willingness and ability to change
  - the level and extent of the risk involved for the child (and, where offending is a factor, the risk to others) of remaining in his or her current home or moving to a different placement.
9. Assessments should be recorded in writing. Where the assessment has been prepared in partnership with the parents or carers and child, the content and recommendations, should be explained to the family. Information should normally only be withheld wholly or partially when a child is unable to understand the assessment by virtue of his or her age or maturity, or disclosure to the parents, carers or child would breach confidentiality or cause harm. The assessment should conclude with an outline of options and clear recommendations.

### **The care plan**

10. Arrangements to look after a child should be made in writing and agreed with a person with parental responsibility for the child or, if there is no one with parental responsibility, the person who has care and control of the child at the time the arrangement commences. Where a child is looked after because he or she is subject to a supervision requirement or an Order, authorisation or warrant made under chapters 2, 3 or 4 of Part II of the Act, the parents or carers will have no choice about whether or not their child is looked after. However, this should not preclude trying to reach agreements with parents or carers about the ways in which the requirement, order, authorisation, or warrant, and any conditions imposed by the children's hearing or sheriff, are put into effect. *Regulation 6*
11. Where a young person is sixteen or over, arrangements to accommodate a young person can be made directly with him or her and parents' agreement is not required to look after their child. However, in practice, except where a young person is completely estranged from his or her parents, it will normally be beneficial to the young person to include his or her parents in the decision-making. In these circumstances, care would need to be taken not to undermine the young person's right to request accommodation or breach his or her confidentiality. *Section 25*
12. The local authority should draw up a written care plan for the child which outlines the arrangements which have been made. Whilst each care plan will differ according to the particular circumstances of the child and his or her family, the matters outlined in Part I of Schedule 2 must be considered, as far as applicable, for all children who are looked after. For children, to be placed away from home, the additional matters in Schedule 2, Part II must be considered. *Regulation 6*
13. The plan should, wherever practicable, be drawn up in consultation with the child, the child's parents, the prospective carers (if not the parents) and other

important individuals and agencies in the child's life. Whenever practicable, the plan should be drawn up before a placement is made, otherwise it should be drawn up as soon as reasonably practicable after the child is placed. It should be reviewed, and where necessary adjusted, at the first and subsequent reviews or if the child changes placement. The child, his or her parents and the child's carers should receive a copy of the plan and any amendments that are made to it. If a child is placed in foster care, aspects of the care plan and the foster placement agreement will be similar, and it may be appropriate to develop a combined plan, provided that matters which are confidential to the foster carer and the authority, such as details of payments, are not shared with parents or children.

14. Where the child remains at home, or is accommodated elsewhere at the request of parents, achievement of the plan will normally require that there is agreement between the authority and the parents about the main matters in the plan. A signed written agreement will generally be the best way of signifying the parents' understanding and commitment to the plan. Where the child is of sufficient age and understanding the child should also be a signatory of the care plan. (See also chapter 2 on home supervision.) This may be more difficult to achieve, and sometimes inappropriate, where a child is required to live away from home on a supervision requirement, or is subject to a parental responsibilities order made to a local authority. Nevertheless, the local authority should still seek to reach agreement with parents about the plan for the child. It may be helpful in some situations for the parent to record his or her agreement with some aspects of the plan but not others, rather than not agreeing the plan at all.

*Regulations 4 & 5* 15. In drawing up the plan consideration should be given to the following points

- what are the objectives of the local authority in looking after the child and is any change needed in his or her legal status to achieve these objectives?
- can they be achieved through the provision of accommodation by voluntary agreement with parents either as a single placement or as a series of short-term respite placements?
- is a supervision requirement or other legal order needed to achieve the objectives?
- if the child is to be looked after under a supervision requirement or other legal order, does the child need to be looked after away from home?
- if so, what type of placement is required?
- how long is it planned that the child will be looked after and what arrangements have to be made for the time when the child is no longer looked after?
- where it is agreed that the child is looked after away from home, (except where this is for a series of short-term, respite placements), what plans are there to restore the child to his or her immediate or extended family or, if this is not appropriate or achievable, to provide permanence in an alternative family or provide support for the child to live independently?
- where it is agreed that the child is looked after away from home are there any changes needed to contact, health care or education arrangements?

16. The plan should be a practical document which spells out who will be doing what, and by when, in order to meet the objectives of the placement. It should

outline the responsibilities of the local authority, the child, anyone with parental responsibility for the child, and any other relevant person. For a child placed away from home the responsibilities of his or her carers will be relevant. The objectives should be tangible and achievable. The plan should be written in plain language, avoiding jargon, and each party to it should know exactly what it means and what is expected of him or her. It should be a document that is monitored, reviewed and updated so that it remains relevant. The plan should help to ensure that children are only looked after for as long as is necessary and beneficial for them.

17. An integrated package of materials is being developed to help social workers and carers to plan their work with children and young people who are looked after. The Scottish Office will be supporting interested local authorities in piloting the materials. If successful, this could provide a common system for all Scottish local authorities.

### ***The range and level of services to be provided***

18. For each child, consideration needs to be given to the type of placement and services which will meet his or her assessed needs. Wherever practicable, prior to making a placement when a child is to be placed away from home, the local authority should find out the views of the child and his or her parents about the type of placement which they feel will meet their needs. If a choice is available, and appropriate, the local authority should provide information about different placements and arrange introductory visits. Even where a choice is not available, information and an introductory visit should if possible be provided.

*Regulation 4*

19. Local authorities should try to ensure that siblings are placed together except where this would not be in one or more of the children's best interests. Where this proves impossible, they should, wherever possible, be placed near each other. The views of each child should be ascertained, as far as is possible given their age and understanding. This regulation has implications for agencies' policies on the recruitment, payment and housing of foster carers and on the maintenance of reasonable vacancy levels in foster and residential care so that placements able to accommodate sibling groups are not filled up with single children. Agencies' ability to meet the needs of siblings will be enhanced if they review and monitor their ability to provide placements for siblings and make plans to overcome any shortfalls.

*Regulation 5(4)*

20. Where it is not in children's best interests for them to be placed together, or this has proved unachievable, then it will normally be appropriate for frequent contact to be maintained. Where siblings are placed separately, reunification should be considered at the first and subsequent reviews, particularly where separation was dictated by a shortfall of placements.

21. Where the child needs a placement away from home, a foster placement will usually be the best option for both short and long-term care for children under the age of twelve. They will only exceptionally be placed in residential care because it has been assessed that this is the best or only type of placement able to meet their needs. However, at other times a residential placement may be made because of a lack of foster placements, or a lack of foster homes able to keep a sibling group together, and if this occurs, an urgent plan to find or recruit a suitable foster home should be made.

22. The child's extended family and friendship network should be considered for a potential placement. The issue of when and how relatives or family friends need to be assessed as foster carers is addressed fully in the chapter on foster care.

23. For teenagers, either a foster home or a residential establishment may offer the best way to meet their needs. Where a young person has experienced several foster placement breakdowns, a further foster placement may not be appropriate. Some young people may express a view that they prefer residential care to foster care. Their view should be carefully considered as an enforced placement in foster care is unlikely to work. Some young people need specialist educational or therapeutic services provided in the place where they live. A very small number of young people will need secure residential care because their physical or moral welfare is at risk from absconding or they are likely to harm themselves or another person. For some young people, however, residential care will be chosen because there are insufficient fostering resources. Local authorities should identify the frequency with which this occurs and consider ways to try to achieve the necessary increase in foster homes.

24. Some children and young people have complex special care needs and their families may require short-term or long-term support in sharing the care tasks. Respite care services, including the provision of accommodation in residential or foster homes, will often be appropriate. Availability of the same accommodation over time should be a priority as respite care is more likely to benefit children if it is familiar and consistent.

*Regulation 5(2)(d)* 25. Before placing a child in a residential establishment the local authority should be satisfied that the placement is appropriate. It should seek and take account of the views of the child, his or her parents, other people with parental responsibility and any other person deemed relevant by the local authority. It should also be satisfied that the stated functions and objectives of the establishment, as far as practicable, meet the expressed and assessed needs of the child and his or her family.

*Section 17(4)* 26. When considering the type of placement to be chosen, regard should be paid to a child's racial, religious, cultural and linguistic background. As far as possible this background should be catered for within the placement, with carers, or one or more staff members, sharing the child's religion and heritage. If possible, the location of the placement should not isolate the child from his or her community or cause him or her to experience prejudice. Where a child is placed in foster care, his or her carers must be of the same religious persuasion as the child or must undertake to bring him or her up in his or her religious persuasion. Where a child is placed in a residential establishment, the local authority must consult with the person in charge of the establishment and must ensure that the child is brought up in his or her religious persuasion.

*Regulation 5(3)*

27. Regardless of the type of placement, or if the child remains at home on home supervision, consideration should be given as to whether there are additional services which will benefit the child. For instance, some children whose behaviour is particularly challenging may require a respite placement, as well as a main placement, if the main placement is to be sustained. Children may need counselling, psychological, or psychiatric services to help overcome the effects of previous deprivation or abuse. Children may need help to maintain their racial, religious, cultural and linguistic identity particularly if it has not been possible to achieve this fully within the placement. Children who are offenders may need to take part in programmes which discourage re-offending.

### **The steps necessary to end the arrangement**

28. Care plans should indicate the expected duration of the period of looking after. Where applicable, they should outline the actions that need to be taken or services which need to be provided in order that restoration of the child with a parent, relative, or friend and/or discharge of the relevant order can be achieved. Children may remain in need, and they and their parents or carers may well still need services, even though the period of looking after has ended.

*Regulation 4 (2)(d)*

### **Parental Involvement for Children who are Looked After**

29. The extent of parents' or others' involvement in and contribution to the child's care will vary. As a general rule, parents should be helped to exercise parental rights and responsibilities in close relationship with the local authority. Others with a close relationship with the child, even though they do not have parental rights and responsibilities, might also have a role to play depending on the child's circumstances.

*Section 17(3)*

30. Close relationship is not always easy to achieve, and consensus will not be possible in every circumstance since the child's welfare must remain paramount. However, the following guidelines will increase the chances of developing a successful relationship with parents

- Provision of written as well as verbal information at every stage of the looking after process. The information should consist of both general leaflets and written information that is specific to the circumstances of their particular child. Parents should receive information about the local authority's complaints and representations procedure. Any information that is provided either verbally or in writing, should be comprehensible to the particular parent. It may need translating into another language or transcription into Braille. An interpreter may be needed. If the parents have literacy problems, it may be more helpful to provide information on an audio tape.
- Allowing the maximum amount of participation by parents in decision making, that is consistent with their child's welfare. Parents will often need advice and support to do this, particularly in what may be unfamiliar and potentially intimidating meetings. They should be briefed before each meeting as to the purpose of the meeting, the agenda, the process, who will be there and why, when they will have the opportunity to contribute, and how, and the range of possible outcomes. Decisions or recommendations should not be made in advance, with parental attendance seen as a token gesture. To help parents feel at ease, meetings should normally be kept as small as possible. Where someone's role is mainly to give information, a written report should be invited rather than attendance in person. Parents may be invited to bring someone to support them or speak on their behalf at meetings. This person's willingness to accept the constraints of confidentiality should be confirmed. Some parents, especially those with learning difficulties or suffering from mental illness, may find it hard to participate without assistance and the local authority might find someone to speak for them, if they are unable to provide such a person themselves. Parents should be encouraged, and where appropriate helped, to provide a written report. Parents should receive reports before and minutes after meetings.
- Meetings should be accessible and comprehensible to parents. Can they get to the venue easily or do they need help with transport? Are the building,

meeting room, and toilets accessible to a parent or child with a disability? Should the reports be read out or provided in advance on audio tape? Do the parents need help with caring for other children, who are living at home, while the meeting takes place? Is the time of the meeting convenient for the parents?

- On a small number of occasions, it may not be appropriate to invite a parent to a meeting, perhaps because contact with his or her child has been terminated and the child will be attending the meeting, or there is a likelihood of violence. At times, when parents are separated or divorced acrimony will exist between them which makes it inadvisable for both to attend a meeting simultaneously. In all of these situations ways should still be found of consulting parents about decisions and informing them of their child's progress even if it is not possible for them to be fully involved in the decision-making process. If a parent is not invited to a meeting to which it is usual to invite a parent, the reason for this should be recorded on the child's file.
- Social workers need to provide a regular, consistent, and reliable service to parents that does not just focus on planning meetings such as child protection conferences and child care reviews. The social worker should be open about what is happening and why, indicate that he or she understands and values the parents in their own right, focus on parental strengths as well as weaknesses, and be prepared to offer help and advice regarding the parents' own problems, where these exist, as well as the child's.
- Parents may wish or be encouraged to contribute towards their child's care in practical ways. For instance feeding a child or putting him or her to bed if such events occur during a contact visit, shopping for clothes or attending school parents' evenings. It can undermine parents' confidence if they feel that the child's carer has totally taken over these tasks. For some parents, practically contributing towards the child's care may be part of the process of returning the child to live with them. Encouraging and supporting a parent to contribute towards the care of his or her child often requires sensitivity and patience on the part of the carer. Social workers will need to brief carers about the aspects of care which are to be shared and be alert to any emerging difficulties.
- Parents will often wish to be consulted about certain aspects of their child's care even if they do not intend to be directly involved. A major change of hairstyle or similar presents being bought by both parents and carers for Christmas or birthdays are examples which can lead to acrimony if consultation does not take place. It may not always be appropriate to include this level of detail in the care plan but the social worker should ensure that the parents, carers and child, if old enough, are aware of the decisions and actions where consultation is needed.

## **Contact between Children and their Families**

### ***The statutory framework for contact***

*Section 17* 31. The local authority has a duty to promote direct contact between children looked after by them and their parents or people with parental responsibilities. There is a responsibility on a local authority not just to enable contact to happen but to actively encourage and facilitate it.

Whenever statutory orders are made to remove a child from the care of their parents, the sheriff or children's hearing may make conditions or orders determining who the child may have contact with and its frequency and the Act allows the child or relevant persons to return to the hearing or to the sheriff to seek to have these reviewed.

32. A sheriff has to consider, when making a child protection order, whether it is necessary to give a direction to the applicant as to contact between the child and a parent or those with parental responsibilities or any other specified person or class of persons. This direction can subsequently be varied. *Section 58*  
*Section 60*

33. If a child is removed from home in accordance with a child assessment order, this may be subject to such directions as the sheriff considers appropriate as to the contact which the child shall be allowed to have with anyone. *Section 55*

34. Where a children's hearing makes a supervision requirement with a condition that the child lives away from home, then the hearing shall consider whether a condition concerning contact should be made to regulate the contact between the child and any specified person or class of persons. Such a condition can be varied. *Section 70*  
*Section 73*

35. Where a parental responsibilities order is or has been made, reasonable contact should be allowed with relevant persons or those who had a prior residence or contact order or those who were entitled to have the child living with them. The sheriff may also under this section make an order with respect to contact if an application is made to him at any time whilst the parental responsibilities order is in existence.

### **Purpose of contact**

36. Contact has two particularly important purposes. Firstly, to enhance the psychological and developmental progress and well-being of children who are away from their families, and secondly, to increase the likelihood, and smooth the way, for a child to return to live with his or her family where that is consistent with the child's welfare.

37. Contact has a broad meaning which includes face to face meetings, letters, telephone calls, exchange of photographs, and sending gifts and cards. Contact should include not only parental but also sibling contact and possibly contact with members of their extended family and friends. Sometimes this may lead in due course to a placement.

### **Planning contact**

38. The local authority is required, when drawing up the care plan to look after a child to consider: *Regulation 5(2)(a)*

“Whether there is any need for changes in the contact arrangements in order to promote contact with the child's family and others”.

When drawing up or reviewing a care plan for a child placed away from home, the local authority must record the arrangements for contact with the child's family and others. Where contact is not reasonably practicable or would be inconsistent with the child's welfare, the reasons for this should be recorded. *Schedule 2*  
*Part II*

39. The assessment of the child should include full consideration of the value of continuing contact with parents and others and the purpose and frequency of this contact should be outlined in the care plan. Including parents, where appropriate, in the day to day care of their child, enhances the quality of the contact and allows as normal a relationship between a child and his or her parent as possible.

40. The plan should be modified where there are clear signs that restriction or termination of contact is necessary either to protect the child from physical or emotional harm, or to ensure the long-term welfare of the child. Contact, however occasional, may continue to have a value for children even when there is no question of returning to their family. These contacts can keep alive for children a sense of their origins, may keep open options for family relationships later in life, and may reassure children about the well-being of the people concerned.

41. The local authority should encourage and assist parents and families to maintain contact. The unfamiliar position families find themselves in when their child is not living at home will require sensitive understanding from workers and carers and a commitment to remove difficulties that get in the way of effective contact. Local authorities may need to provide services to enable contact to take place. This could include financial support for transport and child care facilities to allow parents uninterrupted time with the child being looked after. The venue should allow contact to be as comfortable and as normal as possible, provided this does not pose a risk for the child.

42. The first weeks during which a child is looked after by the local authority are likely to be particularly important in establishing the relationship between the parent, the social worker, and the child's carer and the level of future contact between parent and child. At this time patterns may be set which are difficult to change, whether the child is looked after by a voluntary arrangement or as a result of a statutory order. Emergency admissions require special care if parents and children are to be reassured from the outset that they have a continuing role in each others, lives and to minimise distress for the child. The social worker should encourage, arrange, and support early visits and meetings even though parents may need help to enable them to cope with their own and the child's distress. These considerations, subject to whatever safeguards are necessary for the child's protection, are equally important where children are subject to emergency protection orders.

43. Any risk to a child from contact with a parent must be assessed and a decision may be taken that contact should be supervised. There may be other reasons why contact is monitored, for instance as part of an assessment. The reasons for supervision or monitoring should be explained to the parents and the child.

*Section 17* 44. Local authorities should discover a child's wishes about continuing contact with his or her parents and other family members. Social workers should, particularly in cases where the child is unsure about contact, try to help the child to clarify his or her views and to understand what is likely to be of greatest benefit to him or her both in the immediate and long-term. If a child who understands the situation, continues to insist that he or she wishes to have no contact, or only limited contact, the authority should consider taking the necessary steps to terminate or restrict contact. The full responsibility for decision-making should not, however, be laid upon the child.

45. Foster homes may be appropriate venues for contact. Foster carers often play a role in facilitating contact and subsequent reunification. Training and support

can enhance their confidence in carrying out this role. However, the foster carers' home is usually a family home and they, their children, and any other foster children also need time to get on with daily life. Contact arrangements or recommendations for contact orders should always be subject to consultation with foster carers.

46. A child who is looked after may be placed in a variety of settings, and the implications of these for contact with the family should be considered as part of the decision on placement. If a child is placed with another agency, the local authority should ensure that there is an agreement with the agency about arrangements for contact. Responsibility for the child's welfare remains with the placing local authority. The agency will normally have the responsibility for ensuring that agreed contact arrangements are implemented. The local authority should, with the agency's help, keep the child's contact with his or her family under review. Any decision to alter or restrict contact arrangements is for the local authority, in consultation with the agency.

47. Authorities should monitor the implementation of the proposed contact arrangements. Records should be kept to remind social workers of decisions taken earlier and to give a new social worker a full picture of the plan for the child. Social workers should check regularly whether the degree of contact with parents and others envisaged in the plan is happening in practice, and any progress or problems should be discussed with the parents and the carers. In certain circumstances, it may be necessary to point out to parents the possible implications of an inadequate or unpredictable level of contact for the child's future.

#### **Restriction or termination of contact**

48. Because of their responsibility to give paramount consideration to the welfare of the child, authorities should not avoid or defer difficult recommendations or decisions when it is clear that it is in the best interest of the child that contact should be restricted for the foreseeable future or terminated altogether (although in both of these circumstances non face to face contact may still be in the child's interest). Authorities should have procedures, involving senior members of staff, for reaching such recommendations or decisions. Except in an emergency, a care review should be called to consider such a recommendation. Termination will not always be permanent. As children mature and/or recover from traumatic events in their lives, their views about contact and their ability to benefit from it may change.

49. If contact appears to be damaging a child, who is accommodated by voluntary agreement with parents and the parents are committed to its continuation, the case may need to be referred to the Principal Reporter if there appear to be grounds for a supervision requirement, or to a court if there appear to be grounds for a parental responsibilities order.

#### **Health and Development**

50. Like all children, children who are looked after need to develop physically, psychologically, morally and emotionally. For many children who are looked after this is not an easy process. Some will not have received the safety, security, stimulation or encouragement that they require and they may be developmentally delayed or have unmet developmental needs. Other children's development may be affected by disability, mental illness or learning difficulties. There will be a few who are both

affected by disability and have not received care that has been conducive to appropriate development. Liaison and joint working with colleagues in health and education will be important for all these children.

*Regulation 13* 51. Local authorities should act as good parents would in relation to the health care of children who are looked after by them and placed away from their own homes. Care plans should fully reflect health care needs and should include health promotion, general surveillance and assessment of developmental progress, as well as treatment for illness and accidents, in order to promote the physical, social and emotional health and development of the children. Where a child is on home supervision, health care will often be an important element in the care plan and the local authority should aim to work with parents to promote and maintain the child's health. Where a child is placed for respite in a series of short term placements, most health care needs will remain the responsibility of the parents. The care plan should indicate the health responsibilities of the carers when the child is physically in their care.

*Regulation 5(2)(b)*  
*Schedule 1 Para 9* 52. When drawing up a care plan for a child placed full time away from home local authorities should ensure that the child is provided with adequate health care, including any necessary medical, psychiatric, psychological, dental or ophthalmic attention and any necessary immunisations. The child must be registered with a general medical practitioner and general dental practitioner. Consideration should be given to continuity of medical, dental and ophthalmic care, and where possible, the child should retain the same GP, dentist and optician. The child being looked after should have the same access to NHS provision and school health services as other children. Children who are looked after will often have suffered early disadvantage and may be at risk of ill health because they have not previously received adequate care. Because of past experiences, some may be prone to depression and suicidal feelings or actions.

53. Local authorities and child health specialists should make arrangements for professional advice to be available to local authorities to interpret health reports and information, assist in preparing and reviewing the arrangements for health care and assist in decisions relating to children's care.

*Regulation 13* 54. Local authorities are required to arrange for a medical examination and written health assessment of a child before placement, if reasonably practicable, unless an assessment has been carried out within the last three months. In the case of an emergency placement, the authority should arrange for a health assessment as soon as practicable thereafter. The aim of this requirement is to provide a comprehensive health profile of the child and provide a basis for monitoring the child's development whilst he or she is being looked after. If a medical has been carried out within the last three months but it seems likely that there has been a change or deterioration in the child's health since then, a further examination and update of the assessment should be arranged.

55. There is no requirement for medical examination and written health assessment of children to take place periodically during placement. Local authorities will need to decide, in consultation with local child health services in which circumstances, and how regularly, it will be beneficial for such children to have medical examinations. Individual children's health needs will differ and the care plan for the child should specify whether, with whom, and at what intervals, medical examinations

should take place. There may also be a requirement for the child to have a medical examination made as part of a supervision requirement. *Section 70(5)(a)*

56. Local authorities should have procedures in relation to consent to the medical examination and treatment of children who are placed by them and should make these known to the child health services, the parents, the child and the child's carers. The arrangements for medical consent should be set out in each care plan where a child is placed away from home. These will vary according to the legal status of the child, the age and understanding of the child and whether a local authority does or does not have parental responsibilities for the child. Parents, where they have parental responsibility and the child is placed away from home, should be asked to sign a medical consent form giving consent for the local authority to seek and obtain any specifically recommended immunisations and medical and dental treatment for a child, without delay or confusion.

57. Where a child is placed with foster carers, and the parents have signed a medical consent form, it is possible for the foster carer to give consent to a specific surgical, medical or dental treatment or procedure, where the child is not of sufficient age or maturity to give his or her own consent. This will be a useful power in emergencies, or where the treatment or procedure is minor, or where a parent cannot be found. Foster carers should, however, be discouraged from giving consent where the treatment or procedure is major or where there is no great urgency. Parents, should as far as possible, be consulted prior to such treatment or procedures.

58. There may be occasions when parents for religious or other reasons refuse consent to a medical examination or treatment and the child is not of sufficient understanding to make the decision. If the local authority is of the opinion that the child would suffer significant harm if medical examination or treatment does not occur, it can, if grounds exist, refer the case to the Principal Reporter or seek a child assessment or child protection order. Alternatively a Health Board, NHS Trust or other person or organisation, which is not a local authority, could apply for a "specific issue order" to ensure that necessary medical examinations and treatment are made available to the child. *Section 11(2)(e)*

59. Children of sixteen and over can give their own consent to surgical, medical or dental examination or treatment. Children under sixteen may also be able to give or refuse consent depending on their capacity to understand the nature of the treatment – it is for the doctor to decide this. Children should be encouraged to express their views to the doctor concerned. Children who are judged able to give consent cannot be medically examined or treated without their consent and this cannot be overridden by a supervision requirement or a warrant or order. The local authority should draw children's attention to their right to give or refuse consent to examination or treatment if they are sixteen or over or if they are under sixteen and the doctor considers them of sufficient understanding to understand the consequences of consent or refusal. A placement should not be refused if a child does not consent to be medically examined. It is, however, the responsibility of the local authority, and part of the carer's task, to educate young people to understand the importance of health care and to take increasing responsibility for their own health.

60. An accurate and up to date health record should be maintained as part of the record of every child placed away from home on a full time basis. This should record medical assessments, illnesses or accidents suffered by the child, medical, operative,

psychiatric, psychological, dental or ophthalmic treatment received and immunisations. It should also include any form indicating parental consent to treatment.

### **Educational Development**

61. Children who are looked after should have the same opportunities as all other children for education, including further and higher education, and access to other opportunities for development. They should also, where necessary, receive additional help, encouragement and support to address special needs or compensate for previous deprivation or disadvantage.

*Regulation 5 (2)(c)*  
*Schedule 1 Para 10*

62. Educational and wider developmental needs should normally be addressed in the care plan. In planning for the child, local authorities should have regard to continuity of education, take a long term view of the child's education, provide educational and developmental opportunities and support, and promote potential and achievement. Plans should recognise the value of peer group relationships made in educational and community settings.

63. Local authorities should, in most cases, act jointly with parents in relation to the education of children who are looked after on a full time basis away from home. The aim will be to ensure that the child receives the support he or she needs to achieve his or her full educational potential. When a child is on home supervision, education will often be a significant element in the care plan and the local authority should aim to work with parents to promote the child's education. Where the child is receiving a series of short term placements for respite, the parent will normally remain responsible for educational arrangements.

*Regulation 7*

64. Local authorities should notify the local education authority of placements, except for some placements which are intended to last for less than twenty-eight days. Information should reach those who need it in good time, especially the school. Special support may be needed where a change of school cannot be avoided. Local authorities should ensure that the carer's responsibilities towards the child are understood by the school. Carers may exercise the parental role in relation to the school in day to day matters such as attending parents' evenings or receiving school reports but there will be many cases where parents continue to play that role or where the role is shared. It will be up to the social worker to clarify such arrangements with the school.

65. Carers have a major contribution to make to a child's educational progress and development. They are in a good position to identify the child's capabilities and any difficulties, fears and developmental needs. With the help of the carer, and through school reports and direct contacts with the school, the child's educational progress must be kept under review along with other aspects of the child's welfare. Difficulties should be addressed and help provided, including, where appropriate, access to specialist services within the local authority's educational provision. If a child is excluded from school, the local authority and/or the parents, should pursue all the avenues open to them to try to get the child reinstated. If this proves impossible, and the child is permanently excluded, the local authority should ensure that the child receives appropriate education as soon as possible.

66. Social work departments and education departments should work together to ensure that they fulfil their statutory duties and meet the needs of children with special educational needs. The local authority's responsibilities towards children

with special educational needs are covered in greater detail in Volume 1 chapter 6 of this guidance.

67. Children should be encouraged and given opportunities to develop and pursue leisure interests and any special gifts they may have, and to share in the activities of their peers. With the child's agreement, supplementary educational opportunities could be arranged if these would help the child overcome past disadvantage, help develop a particular interest or talent or maintain his or her culture and language. Even where a child is looked after or accommodated for a relatively short period, the aim should be to provide opportunities for development so that the child can benefit as far as possible from the placement, and to identify the help the child may need to sustain new interests on return home.

68. The local authority has a responsibility to address the child's moral and spiritual needs. Where a child is placed away from home, the social worker and the child's carers should discover whether the child practised any aspect of his or her religion when he or she was at home and provide opportunities and encouragement for this to continue. Some children, particularly adolescents, may reject the religious persuasion in which they have been brought up or may adopt a different religion. In some circumstances, this decision may affect their relationships with their own families.

### **Respite Placements**

69. Arrangements for respite care should be made in partnership with parents. Flexible arrangements should be made which allow parents and carers to negotiate directly with each other. Parents should find respite care complementary to the care they provide. Guidance on respite care for children with disabilities, is covered in Volume 1. Its use should also be considered for parents who, for whatever reason, find full-time parenting stressful or onerous. The child may benefit from receiving the consistency, stimulation, warmth and attention such a placement can provide. A timely offer of respite care may prevent full time care becoming necessary.

70. In order to safeguard and promote the welfare of children while they are placed for respite away from their own homes, a series of short planned placements which include overnight stays may be treated as a single placement, provided

*Regulation 17*

- all the placements occur within a period which does not exceed one year
- no single placement is of more than four weeks duration and,
- the total duration of the placement does not exceed 120 days.

71. The requirements of the Regulations apply to such placements except that they need not be repeated for each placement in the series. The placements must be subject to a care plan and the plan must be reviewed. The child should receive a medical before the series of placements commences, but does not need to receive one annually, or at other intervals, unless the child's needs indicate this would be beneficial. A review of the care plan should take place within three months of the series of placements commencing, and then every six months thereafter.

*Regulation 17*

### **Notifications of Placement**

72. The responsible local authority should, as soon as reasonably practicable, inform the following authorities and people about the commencement and ending

*Regulation 7*

of a placement, (except where a foster or residential placement is intended to last for less than twenty-eight days)

- if the foster or children's home is within the area of another local authority, that local authority
- if the child is of compulsory school age, the education authority for the area in which the foster or children's home is. If the child has significant medical or special educational needs, the education authority must be informed before the placement starts. Where the school the child will attend from the placement is in a different local authority from the foster or children's home, that authority should also be notified
- the local Health Board or nominated child health specialist in whose area the foster home is. If medical advice has been received that the child has a problem of medical significance to his or her future care, the Health Board must be informed before the placement starts
- every relevant person in relation to the child whose whereabouts are known, i.e. anyone with parental responsibilities or rights or anyone who ordinarily has charge of, or control over, the child.

It is not required that particulars of the placement, for instance the name or address of the foster carer, is given to relevant persons if the local authority considers that this is not in the best interests of the child. However, such information should only be withheld in exceptional circumstances and it is recommended that such decisions should be made at a senior management level. A children's hearing may direct non-disclosure, and, in such cases the decision is not a matter for the local authority. Whilst the views of foster carers or care staff should be taken into account, they need to be aware that their particulars will normally be given to relevant persons, unless there is good reason to the contrary.

73. Local authorities should agree with neighbouring local authorities, education departments and Health Boards the most appropriate method of making notifications, to whom they should be made and the information they should contain. Local authorities should have administrative systems which result in quick and accurate notifications at both the beginning and the end of the placement.

74. Where a child is to be placed for less than twenty-eight days, the local authority must inform the host local authority if the foster or children's home is based in that local authority. They need not inform the local education department, unless the child has special educational or significant medical needs (however the child's school should be told of his or her change of address and, where applicable, legal status), or the Health Board, unless either the child has a problem of medical significance for his future care or he or she is below compulsory school age. If, however, the placement lasts more than twenty-eight days, the notifications outlined in paragraph 73 should be made. Local authorities may consider after consultation with the other agencies involved that it is more straightforward, and beneficial to children, to make notifications about all placements regardless of how long they are intended to last.

75. Where an emergency placement is made with a foster carer or an immediate placement is made with an unapproved carer (see the chapter on foster care for further details) the notifications in paragraph 73 shall be made as if the child is

staying for more than twenty-eight days, regardless of the intended length of placement. They should be made as soon as reasonably practicable after the written placement agreement has been made with the foster carer.

### **Monitoring the Placement**

76. The local authority is required to visit within one week of the placement being made, and then at intervals of not more than three months. Many placements will require more frequent visiting than the minimum. The frequency of visits should be determined by the circumstances of the individual case, including any particular stresses being experienced by either the child or carers. The agency must also arrange a visit whenever reasonably requested by a child or carer. Visits during the first weeks of placement can check that any arrangements for contact are working smoothly and give advice or support needed during the settling-in period. The child and carers should regularly be seen alone as well as together. The social worker should ascertain the child's feelings and wishes and make a record of each visit. The record should indicate whether the child was seen and, if not, why not, and if the child was seen alone. It should also comment on the child's welfare and the success of the placement including any comments made by the child or the carer. Any matter for concern should be highlighted so that the need for necessary action can be discussed with the social worker's manager.

*Regulation 18*

77. Most foster families prefer visits by appointment as they have busy childcare and household schedules which makes it hard to accommodate an unexpected visitor. However, an unannounced visit may be required if concerns exist that all is not well in the placement and that the difficulties are not being shared with the social worker. Some visits should take place when all members of the household are at home and should involve meeting with any member of the family who is normally at work full time. The child's bedroom should sometimes be seen. Both child and foster carer should be invited to get in touch with the social worker as required.

78. Visits to the child and his or her carers have a number of purposes

- safeguarding the child's welfare. This could entail building a relationship of trust between child and social worker, reassuring the child who is away from family and friends and who may be feeling isolated and vulnerable, undertaking direct work with the child such as life story work and identifying if the child needs additional help or support
- ascertaining whether the agreed range and standards of services are being provided
- monitoring and evaluating the achievement of goals and the child's progress including the effectiveness of the contact arrangements
- providing support to the carers and identifying whether the carers, and in the case of a foster home any members of their family, need additional help or support.

Where more than one social worker is involved in the placement, both workers should be clear as to the division of roles and responsibilities.

79. Where a placement is going well, ongoing review of the plan for the child requires that visits take place at least at the frequency the Regulations require. The

social worker will only be able to identify and help with subsequent difficulties if time has been taken previously to establish a relationship with a child and his or her carer. If, in long-term foster placements, visits and support seem genuinely superfluous, the case for a residence order or adoption order application should be considered.

## **Reviews**

### *Section 31 Regulation 8*

80. Local authorities are required to review the cases of all children who are looked after by them. The Regulations prescribe how reviews should be carried out. Although not a legal requirement, it is also good practice to review children who are freed for adoption. Reviews provide the cornerstone for monitoring, adjusting and developing plans to meet the needs of children looked after by the local authority. The aims and process of care reviews need to be clear and accessible to children and families and to the professionals involved. Review practice must aim to avoid delay and drift. Systems for monitoring the effectiveness of care reviews will be important to provide feedback and an overview of how agencies are meeting children's needs.

81. The overall objectives of the care review will be

- to provide an opportunity to take stock of the child's needs and circumstances at regular, prescribed time intervals
- to consult formally with parents and children
- to assess the effectiveness of current plans as a means of securing the best interests of the child
- to provide an opportunity to oversee and make accountable the work of professional staff involved
- to formulate future plans for the child.

82. The child's needs and circumstances, care plan, the reasons he or she was originally looked after, legal status, placement, how long he or she has been placed there, and whether or not he or she is living full time, or predominantly, at home will determine the format, formality and comprehensiveness of the review. The format and formality of the review will vary depending on the child's circumstances. For instance a review in a secure unit is likely to be very different from a review in a stable long term foster home. Where a child is living at home on home supervision or is living predominantly at home but receiving respite care, reviews are likely to be less formal and to focus on specific aspects of a child's care and how he or she is benefiting from the supervision requirement or from respite care. Review formats should remain flexible so that they can accommodate and address changing circumstances or unforeseen difficulties that may arise for the child.

83. In planning and managing care reviews local authorities should balance the requirements of accountability and information sharing with the child's right to privacy and normality. A review should be seen as helpful rather than intrusive, by a child and his or her parents. Whilst problems that arise with the child will need to be addressed in the care review, it should also focus on progress and positive developments in the child's circumstances and on emerging talents, skills and abilities.

## **Status of reviews**

84. Where the child is not subject to a supervision requirement from the children's hearing, the review will be the forum where decisions are made about future work

with and care of the child and on any change to the care plan. An exception to the decision making power of the review is where adoption becomes a consideration. The review can decide to refer the case to the adoption panel but cannot legally decide on behalf of the local authority that adoption is in a child's best interests.

85. If the child is subject to a supervision requirement from the children's hearing the review does not have full decision making powers. It may formulate recommendations to be presented to the children's hearing, which will decide the direction of the supervision of the child and specify any conditions that are thought necessary. However, within the scope of the supervision requirement, many matters may be left to be determined by the local authority and the child's parents, for example, contact arrangements, school changes, or the allocation of responsibilities to different persons for the various aspects of work.

### **Frequency and timing of reviews**

86. Where a child is looked after by the local authority, and placed away from his or her own home, the first review must be held within six weeks of the child being placed, a second review within three months of the first review and subsequent reviews every six months. The only exceptions to this are where the child is placed away from his or her own home for a series of short-term placements or where a child is placed at home on home supervision. In these cases, it is necessary to have the first review within three months and subsequently within six months from the date of the previous review.

*Regulation 9*

87. The early six week review for children placed away from home is in recognition both that the local authority has been given the responsibility for day to day care of the child and that the child has faced a major change in his or her living arrangements. It is essential, therefore, that the appropriateness of the care plan is reviewed at an early stage. Early, focused planning is essential to achieve a successful return home, if appropriate, for children placed away from home. Reviews are also important for establishing and maintaining the momentum of work with children being looked after at home. Additional reviews may need to be called if there is a major change of circumstances, plans are failing to achieve desired outcomes, the authority, child or parents consider either that the plan is not being implemented properly or that it is no longer necessary that the child be looked after by the local authority.

88. Where a child is subject to a supervision requirement, he or she shall not continue to be subject to a supervision requirement for any period longer than is necessary in the interests of promoting or safeguarding his or her welfare. Each review should consider whether the supervision requirement continues to be necessary and where the local authority is satisfied that the supervision requirement is no longer needed they should refer the case to the Principal Reporter who will convene a review hearing.

*Section 73*

89. A review should be conducted prior to a children's hearing considering a case under Section 73(4) or (5) of the Act, that is when the local authority feel that the best interests of the child who is subject to a supervision requirement would be served by

*Regulation 9(3)*

- the supervision requirement ending or being varied
- applying for a parental responsibilities order

- applying for a freeing for adoption order
- placing the child for adoption
- referral to the Principal Reporter because a condition in the requirement is not being complied with.

A review must also be conducted prior to the children's hearing considering the case, where the local authority becomes aware that an application has been made, or is about to be made, to adopt a child who is subject to a supervision requirement. Where a child or relevant person give notice to the Principal Reporter that he or she requires a review of the supervision requirement, or a relevant person proposes to take the child to live outside Scotland, the local authority must hold a review if it is practicable to do so. This will depend on the time available before the review hearing is convened.

*Section 73* 90. The timing of child care reviews should be well co-ordinated with that of review hearings. Where a supervision requirement has been made and a review hearing has not been convened for any other reason, the Principal Reporter will convene one within the three months before the expiry of the supervision requirement after one year. The second child care review for a child on home supervision is required before the child has been looked after for nine months. Where children are looked after away from home, the third child care review will take place before the child has been looked after for 10½ months. Both of these reviews are therefore well timed to make recommendations to the children's hearings. Local authorities may need to liaise with the Principal Reporter so that the child care review precedes the review hearing.

91. The relevant outcomes of care reviews will need to be communicated to the hearing and it may well be that the submission of a record of the discussion and key recommendations from the care review will be of benefit to the panel members when they consider the local authority's recommendations for the child. When the care review considers that adoption or freeing for adoption are options, the adoption panel will also need to consider the case prior to a review hearing (see Volume 3 of this guidance).

#### **Venue for the review**

92. Where the child is living will often be the most appropriate venue for the review but children and young people may have a preference as regards where the review should be held and this may be relevant in promoting their participation. Parents' and carers' wishes and needs should also be taken into account. Provision for financial or practical help with transport to and from the review and the costs of caring for any other members of the family may be considerations for both parents and carers.

#### **Chairing the review**

93. Chairing a review requires professional knowledge and impartiality of judgement. Ideally the chairperson should not have line management responsibility for the case. This may be less important when the child is living at home on home supervision because the parents retain greater practical responsibility for the child.

94. Where possible, the chairperson should be nominated for an individual child rather than for a particular residential or foster home, so that he or she can

consistently oversee plans for the individual child. This will be especially significant if the child moves between placements. Research into reviews highlights the significance for young people of developing a link over time with the chairperson of the review whom they see as someone with whom they can communicate and to whom they can express uncertainty more readily.

95. The chairperson is charged with ensuring that, as far as possible, the objectives of the review are met. These objectives will vary depending on the stage of the review process for a particular child e.g. initial, subsequent or final, the legal status, and the type of placement of the individual child, for example, respite care or secure care. The chairperson should be consulted by the social worker about who should attend the review, which key people involved with the child and his or her family are consulted, and in the preparation of the agenda for matters to be addressed at the review. Additionally, the chairperson will be responsible for facilitating the participation of children and parents, making sure that decisions and recommendations are clear and that tasks are allocated to specific individuals that can be carried out within realistic time scales. He or she should ensure an accurate record of the discussion and decisions or recommendations is produced and disseminated.

#### **Attendance, notification and preparation**

96. The social worker responsible for the work with the child and his or her family should consult with the chairperson and where applicable the child and the parents about attendance of individuals at the review. A small group of people, each of whom is familiar with the child and his or her parents, is most likely to facilitate confident participation.

97. A child aged twelve or over should be invited to attend his or her review and the attendance of younger children considered in the light of their age and understanding. The chairperson can exclude children from all or part of their own reviews where their presence is likely to disrupt the review, or where it is in their own interests to be excluded. This should be exceptional and, if it occurs, the reasons recorded in the child's file. Whether or not the child attends the review, the obligation on the local authority to take into account the views of the child still applies. Assistance should be provided to enable children to understand the importance and purpose of the review. This should encourage attendance and reduce the need to exclude children from reviews.

98. Attendance may not in itself ensure active participation by the child. Children usually value the opportunity to hear what is being said about them, but often lack the confidence to influence decisions. Feelings about lack of real participation are more acute for children who only attend part of their review, rather than having the chance to hear all of the discussion. Special arrangements may be needed to help disabled children participate.

99. The child's ability to participate fully in a review will depend greatly on the preparation they received beforehand and the support they receive within the review. Children find preparation helps them to understand the issues to be raised in the process and when and how to make their own contribution. The chairperson's role is crucial in involving the child effectively, for example, through direct open questions and invitations to respond. Children are sensitive to whether they feel their contributions are listened to and this has a direct bearing on how they feel about

attending. Children may choose to invite someone to speak on their behalf and Children's Rights Officers may be helpful.

100. The attendance of children should reflect the broader process of consultation with them, from the beginning of their relationship with the local authority. The process of involvement may begin with clear information being given to the very young child, moving to opportunities to express their views in any format, written or verbal, as soon as they are able, and finally arriving at a time when young people expect and value opportunities to discuss decisions concerning their own lives in reviews.

101. Children from ethnic minorities are reliant on those planning and conducting reviews to be aware of the racial, linguistic, religious, and cultural factors which could affect the conduct and content of reviews and the plans or recommendations made at reviews. This awareness will not only help to promote the child's self-esteem throughout the separation, but will also facilitate participative decision making and easier reintegration into his or her family and community of origin.

102. Children who have had very disrupted experiences are more likely to suffer from some degree of developmental delay, so assessment of their actual developmental stage, in relation to their chronological age, is crucial. Some children function both emotionally and intellectually as if they were much younger children. It may be necessary to build up their confidence during the review process in order to address their preoccupations, which may be more akin to those of a much younger child.

103. Successive separations from parents for which children have not been adequately prepared, and from which they have not recovered, or abusive experiences may also render them more vulnerable. They may feel they have been moved unwillingly and without consultation, or guilty at not having been able to prevent or stop the abuse. This underlines the need to consider at the earliest stage the information the child should be given, together with opportunities for them to express their feelings about what has happened to them and their views about the future. Real involvement in choices, however small these may appear to adults, helps children to feel more confident and prepares them to contribute to discussion and decisions at reviews.

104. Someone with a relationship with the child should prepare him or her for each review considering which issues are most urgent for the child and how he or she can be helped to make his or her views known. For example, even though children in the six to ten year old age group may not understand the complexities of decision making, it is still important to ascertain their wishes and feelings and give them an explanation of events and plans and the reasons for them. Preparation for a review with a child of this age could involve play, art work or making a video or audio tape. Adolescents, and often pre-adolescents, can be helped to give their views in a variety of ways, for instance through a chosen supportive adult, in taped or written form, as well as verbally through discussion at the review itself.

105. Those with parental responsibilities in relation to the child should normally be invited to attend the review and to participate fully. In circumstances where the children's hearing makes a condition terminating contact with the child, or the

chairperson has reason to believe the parents' presence would preclude the possibility of a proper review being held, (for instance because of the threat of violence or because a child is likely to be intimidated by the presence of an abusive parent) the parents' attendance will be a matter for the discretion of the chairperson. Regardless of whether parents attend, however, they should be allowed to make their views known in writing to the review, and should have a written copy of the decision or recommendations of the review thereafter.

106. Key professionals with the ability to make a significant contribution to the review should be invited. The child's social worker and any foster carer caring for the child or key residential worker should always attend the review. Where a child is in transition from one placement to another, the future carers or key workers should normally also attend. In order for the review meeting not to be too large or intimidating, and for the child and/or parents not to feel that intimate details of their lives are common property, no one else should attend as of right.

107. The attendance of other professionals at a child's review depends on the contribution they can make to the functions of the meeting. There should be consultation with education staff and health professionals involved with the child prior to the review being held, and written reports should be invited. The appropriateness of their attendance should be considered in the light of the needs and wishes of the individual child.

108. Where a child is placed away from home consideration should be given to the involvement of the social worker's manager where he or she is not chairing the review, the officer in charge of the residential unit, or the foster carer's link worker and any specialist workers involved with the child such as workers with children from particular ethnic groups, aftercare workers, or Children's Rights Officers. They should only be invited where their presence is essential to the success of the review.

### ***Matters to be addressed at reviews***

109. The nature of the child's placement will determine the matters to be addressed at the review.

- *Home Supervision*

Reviews should ensure not only that the care plan is proving workable but should consider whether or not the necessary arrangements and resources are in place to meet the conditions of the supervision requirement. It can be helpful for progress indicators to be established in the care plan or at the initial review. The indicators should be as objective as possible so that progress is measurable and there can be shared agreement between all parties as to what has been achieved. A list of progress indicators is in Annex 1.

- *Looked After Away From Home*

Fuller preparation will be needed prior to a review of a child placed away from home and it is suggested that a pro forma review form is used on which the social worker will record the information necessary to conduct the review and which indicates the issues for discussion at the review itself. An example of issues to be included is in Annex 2.

- *Receiving short term respite care*

The characteristics of children receiving respite care, the reasons why respite is needed, the amount and pattern of usage, and the variety of types of placement will mean that each review of respite arrangements will have both unique and common features. The check list in Annex 3 contains relevant issues for consideration.

110. At all reviews following the initial review, the basic information required should include a description of any changes and developments that there have been in the child's circumstances and the placement since the previous review. Both problems and progress should be recorded.

111. When chairing any review the chairperson needs to ensure that the discussion covers

- a full understanding of the child's current circumstances
- an examination of work already done
- an overview of future tasks - what remains to be done, what needs to be done differently and who will take responsibility for this work.

### **Review records**

*Regulation 10*

112. A written record must be kept of the review for future use. These records are particularly important for children looked after away from their own home not only for clarifying plans, but also at a later stage of their lives when they are reflecting on their early history. In deciding what needs to be recorded, the emphasis should be on making a record of decisions or recommendations reached, the facts and judgements which informed these decisions, who will carry them out, and by when. The record should say who was involved in the formulation of these decisions and recommendations and if anyone dissented from them. All reports prepared for the review should be part of the record of the review.

113. The review chairperson should complete and distribute the review notes quickly, in order that decisions can be promptly implemented. The child, parents, and carers or key worker should have copies of the review decisions. Other professionals should receive information relevant to their role in working with the child and family. The child's privacy should be respected.

114. The social worker should ensure that the child, parents, carers or key worker have understood the review decisions and know what tasks are expected of them. Where English is not their spoken language or they have a sensory disability, appropriate translation and interpretation arrangements should be made.

### **Monitoring service provision**

115. Social work departments should monitor whether reviews are held within the stipulated timescales. Their content, attendance, decisions, and whether or not decisions are implemented should also be monitored in order to evaluate the effectiveness of the review system. Monitoring can obtain information about the use of existing services, the need for new provision, and any gaps in specialist services. This should inform the planning process within the local authority.

## **Terminating the Placement**

*Regulation 19*

116. When the responsible authority is satisfied that the particular placement is no longer in the child's best interests it should make arrangements to end the placement. There are a number of considerations in reaching such a decision, including

- the views of the child and his or her parents
- whether the planned purpose of the placement has been achieved
- whether the child's and/or family's circumstances have changed
- whether the placement is unable or unwilling to provide the agreed range and standard of services.

117. Agencies should aim to achieve a planned ending to a placement. Carers have an important role in preparing and reassuring the child, assisting introductions and visits with new carers and helping new carers to understand the child's habits, routines and needs.

118. A child's return to his or her own family will need careful preparation. The child and family may need additional support over the settling-in period until the child is re-integrated into the family. Other services under the Act may be appropriate. A planned period of re-introduction may be needed, depending on the length of time the child has been away from home and the extent of changes in the family. The need for continuity is equally critical at the end of a placement as at the beginning. Children often return to different addresses, there may be new babies in the family, new step parents and step brothers and sisters. Sometimes a child has to change schools and leave behind friends and interests acquired during placement. Parents, too, need to be prepared for changes in the child's habits, interests and routines, and for the possibility of disturbed behaviour while the child is settling in.

119. It is often appropriate for contact between previous carers and the child to continue through visits, telephone calls or letters. In most cases it is helpful for previous carers to be given news of how the child has settled into his or her new life. Where an older child is moving into lodgings or a flat, carers can provide considerable support, often in the medium to long-term. They may be able to offer occasional overnight stays, meals and advice on budgeting, job seeking, further education, household skills, and peer relationships. Where the child is also in receipt of after care services the respective roles and responsibilities of carers and these services should be clarified. Foster carers may be prepared to have the young person back to live with them as a lodger for a while, if their first attempt at independence does not work out. Whilst foster carers will often undertake these tasks willingly, they may end up out of pocket, and local authorities should consider reimbursing any costs.

120. Unplanned endings may happen where a crisis leads the authority to remove the child immediately, the carer asks for the child to be removed or the child insists on leaving. It is not helpful to children or carers, if it can be avoided, to allow placements to deteriorate to such a point that the ending is abrupt, sometimes angry, and often distressing for all concerned. Whilst it is usually beneficial to offer additional support to the child and carers to try to improve a fragile placement, contingency placement planning should take place and be discussed with the carer and the child.

121. Where a child is accommodated by agreement with a parent under a voluntary arrangement, a parent may remove the child without notice if the placement has lasted less than six months. Carers will need advice on how to handle those occasional cases in which it may be necessary for the social worker to seek an emergency order to prevent an inappropriate and unplanned removal where this would be likely to cause significant harm to a child (for example, a drunk parent coming to “collect” his or her child in the middle of the night).

*Regulation 19* 122. Local authorities have a duty not to allow a child to remain in a placement if the authority considers that it would not be in his or her interests to stay there. Where necessary (where a child is at risk of immediate harm, for example) the child should be removed immediately.

123. While authorities should use their powers when they are needed to safeguard a child, the aim should be to bring placements to a planned conclusion, discussing plans with the child, carers, and parents and involving them in the preparation of the child. There may be circumstances where the authority has decided that the placement must be ended but removal may be delayed without disadvantage to the child. Authorities should as far as possible avoid hasty removals.

124. Children and carers need help in coping with disrupted placements. Disrupted placements should be reviewed with the carer in a positive way, where possible without apportioning blame. The aim should be understanding and learning (on the part of the authority as well as the carers) for the benefit of the child and of future placements in the home. Where a disruption has occurred in a foster home, this should not automatically mean that a foster carer’s approval is terminated. Managers should assess what, if any, factors in the foster home contributed to the disruption, what implication these factors might have for future placements, and whether these factors can be reduced or overcome, for instance by training or a change in the foster carer’s terms of approval.

### **Establishment and Safekeeping of Records**

125. Records are the basis, as social workers and carers change, for a common understanding of the plan for the child, the arrangements made, agreements and decisions which have been reached and the reasons for them. Records enable the implementation of decisions to be monitored effectively and kept under review. The local authority’s record may also be a source of information for adults who were previously looked after away from their birth families. This should be borne in mind when deciding on the content of the record as they will often want different kinds of information than social workers.

*Regulation 11* 126. Local authorities are required to keep a case record for each child looked after by the authority. A child’s case record should include all the information about family history, involvement with the authority and progress which is relevant to the child being looked after. The case record should contain

- a copy of the arrangements made for the child (the care plan)
- a copy of the information collected under Schedule 1 in order to draw up the care plan
- copies of written reports in the authority’s possession concerning the welfare of the child; this will include family history and home study reports, reports

made to a children's hearing or a court, reports made of visits to the child, his family or his carer, health reports etc.

- copies of the documents used to seek information, provide information or record views given to the authority in the course of planning a review and copies of review reports
- details of the arrangements for contact and any requirements made by a children's hearing or orders made by a court relating to contact with the child
- details of any arrangements made for another authority, agency or person to act on behalf of a local authority which placed the child.

Any contribution the child may wish to make, such as written material, photographs, or school certificates should also be included. Copies should be made of these documents so that the child can have the originals back at a later stage if wanted.

127. The case record should describe the process of decision-making so that the views of the child and his or her parents can be easily found and related to the decisions taken and arrangements made. The child's record should be separate from management records and those relating to foster carers or residential care matters which are not solely concerned with the individual child. Where information on one of these other records is relevant to the child, a duplicate entry should appear in the child's records. Records should not be amalgamated even in the case of siblings although a degree of cross-reference and duplicate entry will be necessary.

128. Authorities should take responsibility for the safekeeping of records. This requires not only arrangements for the physical security of the records but effective procedures to restrict access to the records to those who are properly authorised and need access because of their duties in relation to a case. Arrangements for access by parents or guardians of looked after children under the Access to Personal Files Act 1987 should be in place.

*Regulation 12*

129. Arrangements for access to personal files by children have been modified by the Age of Legal Capacity (Scotland) Act 1991. Section 2(1)(a) precludes the exercise of some established rights by persons under sixteen years of age

- a person under sixteen has no legal capacity to make an application and gain access to personal information of which he or she is the subject
- a person under sixteen has no legal capacity to consent or refuse consent to share information supplied by that person with third parties
- it follows that a person under sixteen cannot seek a review of local authority decisions regarding access to personal information, or amendment or deletion of entries in such information.

130. It is good practice to share information with children, where possible. One way of achieving this is for social workers to share the contents of their reports with children. Another is to share information held on the record with young people over sixteen when they cease to be looked after. This may help them understand why particular decisions were reached during their childhood and why it was necessary for them to be looked after.

131. The case record of a child who has been looked after must be kept until the seventy fifth anniversary of his or her date of birth or twenty-five years from the

*Regulation 12*

date of death in the case of a child who dies before reaching the age of eighteen. The method and location of storage should ensure the security and preservation of records. The records should be indexed so that they can be easily found when required. The duty to retain records applies to those records which are opened after the Act comes into force. It would be good practice for local authorities to retain their current and previous records of children in care, for the same period.

### **Notification of Occurrences**

*Regulation 14* 132. The local authority must require the person with whom the child who is looked after is living to notify them forthwith if the child dies, suffers an illness or injury likely to result in death or serious disability or if the child has any unauthorised absence or, without lawful authority, is taken away from the person. This duty should be stated in writing and also written in the care plan. On receiving such a notification, the local authority must forthwith notify the child's parents or anyone else with parental responsibility.

133. There may be other occurrences involving the child who is looked after about which the local authority would wish to be notified. Examples might be that the child is charged with an offence, is excluded from school, or overdoses or self harms. The expectation of such notifications might be written into the care plan.

### **Deaths of Children who are Looked After**

*Regulation 15* 134. Local authorities are required in the event of the death of a child who is looked after by them to

notify the Secretary of State

as far as is reasonably practicable, notify the child's parents and other persons who have parental responsibility for the child, except where the child is living with such a person.

135. Sections 28 and 29(2) of the Social Work (Scotland) Act 1968 as amended by the 1995 Act enable local authorities to

- cause to be buried or, unless it is not in accordance with the practice of the child's religious persuasion, cremated, the body of any deceased child who immediately before his or her death was being looked after by the authority
- recover from the estate of the deceased person or from any person liable to maintain him or her immediately before his death expenses incurred in connection with the burial or cremation
- make payments to the parents, relatives or other persons connected with a child who had been looked after by the authority for purposes of any of those persons attending the child's funeral if it appears to the authority that those persons would not otherwise be able to attend without undue hardship and the circumstances warrant the making of such payments.

### **Notifying the Secretary of State**

136. On being informed of the death of a child who has been looked after, the Secretary of State may

- examine the arrangements made for the child's welfare during the time he or she was looked after
- assess whether action taken or not taken by the local authority may have contributed to the child's death
- identify lessons which need to be drawn to the attention of the authority immediately concerned and/or other authorities or other statutory agencies
- review legislation, policy, guidance, advice or practice in the light of a particular case or any trends emerging from deaths of children being looked after.

137. When a child looked after by them dies the local authority should telephone the Social Work Services Group within one working day stating the name of the child, his or her date of birth, the legal circumstances in which he or she was being looked after and where, and brief details of the cause and circumstances of his or her death, if known. This information should be confirmed immediately in writing and a copy of the death certificate should be forwarded as soon as it is available. Within twenty-eight days, the local authority should send to Social Work Services Group a detailed report and supporting information. It may not always be possible to supply complete information at this point if, for instance, a Fatal Accident Inquiry or criminal proceedings are outstanding. As full a report as possible however should be supplied with a supplementary report sent in as soon as the additional information is available. The matters to be covered in the report are outlined in Annex 4.

138. Reports will be acknowledged in writing. The local authority may be asked for supplementary information, including information from other agencies involved with the child. The Social Work Services Group will tell the local authority about their conclusions indicating what, if any, further action they will take or require the local authority to take.

### **Notifying parents and other relevant persons**

139. The regulations require local authorities in the event of the death of a child who is looked after by them, and so far as is reasonably practicable, to notify the child's parents and every person who is not a parent but who has parental responsibility for the child of the death of the child. Other statutory agencies may be able to assist in identifying or finding the persons concerned, and it may also be appropriate to seek their help in notifying the persons concerned where they live some distance outwith the local authority area. It may not be possible to enlist the help of authorities outwith the UK. If a person to be notified has been identified but is a citizen of another country living outside the UK, the authority may have to communicate the information about the child's death in writing, although this is not an ideal way to communicate such information. Where the person is a UK citizen living abroad, the British consulate in the country concerned may be able to assist.

*Regulation 15*

### **Arrangements for the funeral**

140. Where parents retain their parental responsibilities they retain responsibility for all the funeral arrangements unless they delegate the responsibility to the local authority or cannot be found. Where the child has been looked after away from home, particularly if he or she has been in a long-term family placement, the carers may feel distressed that they are not able to organise the funeral. Depending on

the cause of death, sometimes feelings of anger are expressed by parents or carers that more could have been done to prevent the death. Details should be provided in the report to the Secretary of State of how such issues have been dealt with if they have emerged. Information should also be provided of any bereavement counselling that has been made available to parents, carers, siblings, any other children in the placement, and any other persons for whom it may be needed. It may be helpful for support to be provided by someone who has been through a similar bereavement.

141. Where the local authority has parental responsibilities through a parental responsibilities order or a child being freed for adoption they should normally try to involve the parents in the funeral arrangements.

142. The local authority may arrange for the child's body to be buried or cremated. Generally, the local authority should help the persons with parental responsibility take responsibility for arranging the funeral and burial or cremation. Where parents or persons with parental responsibility cannot be found, efforts to find them should not delay the funeral. Local authorities are not authorised to cremate a child's body where this does not accord with the practice of the child's religious persuasion. The funeral should be conducted in accordance with the child's religious persuasion.

143. The local authority may recover any expenses they have incurred through the burial or cremation of a child, who was under sixteen when he or she died, from any parent of the child, including summary recovery as a civil debt. Whilst many parents will wish to take responsibility for or contribute towards the costs of the burial or cremation some may be unwilling or unable to do so. This issue should be handled with particular sensitivity.

144. The local authority may make payments to any person who has parental responsibility for the child, or any relative, friend or any other person connected with the child to pay travelling, subsistence or other expenses incurred in attending the child's funeral, where it appears that the person concerned could not otherwise attend the child's funeral without undue financial hardship and that the circumstances warrant the making of the payment. This provision might apply where the child has been placed a long way from home and the carers and the other children in the placement wish to travel to the funeral or where the child's family are living on a very restricted budget and have no capacity to cover unforeseen expenses. These payments are not recoverable by the local authority.

#### **Support of staff involved with the child and family**

145. Staff and foster families who have been closely involved with a child who dies while being looked after, or who make the funeral arrangements or who provide bereavement counselling may need support to come to terms with the events. Authorities should make this available where necessary. The National Foster Care Association will often be able to put foster carers in touch with other foster carers whose foster children have died.

#### **Children to be Cared for by their Own Parents**

*Regulation 16* 146. A local authority may make arrangements for a child who is looked after to be cared for by his or her parents or by a person with parental responsibilities for the child. However, a child cannot be accommodated by a local authority and  
*Section 25*

simultaneously cared for by a parent. Accommodation cannot be provided if anyone with parental responsibility objects and he or she is willing and able to either provide accommodation or arrange for it to be provided. A person with parental responsibility can remove a child from accommodation at any time except where the child has been accommodated for more than six months, when at least fourteen days notice must be given in writing. However, these rights of people with parental responsibility do not apply where either the child is aged sixteen or over and he or she wishes to be accommodated or the person or persons requiring accommodation have a residence order made in their names.

147. The requirement of at least fourteen days notice in writing avoids sudden disruption to a child and provides an opportunity for parents and the local authority to plan the child's return to his or her family. Arrangements for ending a placement should be agreed and specified in writing to all parties, including foster carers or residential staff. It will not always be necessary to wait fourteen days - this will depend on the needs of the child. There may be occasions when the local authority consider that a return home, even after fourteen days notice, will not be in the best interests of the child. If they consider that compulsory measures of supervision may be necessary they should refer the case to the Principal Reporter. *Section 25*

148. A child who is in a place of safety because he or she is subject to *Regulation 16*

- a child protection order
- an authorisation from a justice of the peace
- removal by a police constable
- a warrant from a children's hearing or Sheriff Court.

cannot be placed with the parent or person with parental responsibilities from whom he or she has been removed. There may be circumstances where it would be appropriate for a parent with whom the child does not normally reside to provide a place of safety.

149. A children's hearing may place a child under supervision at home – guidance is provided in chapter 2. Where, by virtue of a supervision requirement the child is required to live away from a parent or person with parental responsibility, the local authority cannot allow him or her to return home without the permission of the children's hearing. For some children, whilst their main placement will be away from home, it will be beneficial for them to have overnight stays at home. This is likely to apply where return to the family is planned. Where such arrangements may be a consideration, the local authority should indicate this to the children's hearing which can if it wishes, leave some flexibility in managing contact arrangements. *Section 70*

150. A local authority may allow a child who is subject to a parental responsibilities order to live at home with his or her parents although the local authority retains parental rights and responsibilities until such time as the order is revoked or the child becomes eighteen. Generally a child will be placed at home with a view to the parents resuming care and to the order being revoked. In most circumstances, the local authority should try to reach an agreement with the parents whereby an increasing share of the parental decision-making and tasks are returned to the parents. *Section 87*

**Contributions towards Looking After Costs**

- Section 78  
1968 Act* 151. Local authorities are empowered to collect financial contributions for children who are looked after. There is a duty on certain people to pay contributions in respect of a child who is looked after by a local authority or subject to a supervision requirement under which the child is required to live in a place other than his or her home. If the child is under sixteen, the liability to pay contributions is placed on “any natural person who has parental responsibilities”. Where the child is sixteen or over and is in paid employment, the liability is on the child. Local authorities will normally establish a sliding scale of contributions based on parental or, in the case of over sixteens, the young person’s income. The expected contribution must not be greater than the cost of looking after the child. Parents who are in receipt of income support, family credit or jobseeker’s allowance should not be expected to make a contribution.
- Section 79  
1968 Act* 152. Contributions can be paid to the local authority in whose area the contributor is living at the time of payment. When the contributor is living in a different local authority from the one which is looking after his or her child, the local authority receiving the payment has to pay it to the local authority which is looking after the child. The local authority collecting the payment is entitled to make a service charge to the other authority, and if agreement cannot be reached, the amount can be determined by the Secretary of State. A service charge of 10% has been agreed between the Scottish local authorities.
- Sections 80-83  
1968 Act* 153. Where a person fails to pay contributions or is in arrears there are procedures for enforcement through the courts. A contribution order can be attached to a person’s earnings or pension. The contribution order lapses when a child ceases to be looked after or when the relevant condition of the children’s hearing terminates or when the child becomes sixteen. A contribution order can be revoked or varied by the court.
154. Where a father does not have parental responsibilities, it is still possible for the local authority to obtain contributions by means of an action of aliment (ie maintenance) in the same way the child’s mother can if the child is living with her. Where such a decree of aliment already exists in favour of the mother, the local authority can obtain a contribution order to the effect that the payments will be made to the authority instead. A similar provision applies where a trust exists which is paid to the person who had care of the child in order to maintain the child. The local authority may apply for an order diverting the money, or part of it to them for the benefit of the child.

**Emigration of Children who are Looked After**

155. Occasionally it will be appropriate for a child who is looked after to emigrate either because the person they are living with is emigrating or in order to go to live with a relative or friend who lives abroad. There is no prohibition on emigration where it is in the best interest of the child.

156. Where a child is accommodated by the local authority, it would not be possible for him or her to emigrate without the agreement of the person with parental responsibilities. Where a child is subject to a supervision requirement, the agreement of the children’s hearing would also be required. Where a child is the subject of a parental responsibilities order or freed for adoption, it is possible for the local

authority to allow a child to emigrate without gaining the agreement or even seeking the views of persons who formerly had parental responsibility, but this would be an unusual course of action unless the parents have indicated that they do not wish to be further involved in decisions about the child or they cannot be found.

157. Before a child who is looked after emigrates, the local authority should satisfy itself that

- emigration is likely to benefit the child
- suitable arrangements have been made for the child's care in the country to which he or she is going including, where applicable, continuing social work support or supervision
- the child, if he or she is old enough to form an opinion, wishes to emigrate
- there are contingency arrangements if the emigration does not work out for the child and that steps are taken to explain these to the child
- where it has a parental responsibility order, a decision has been reached, depending on the circumstances of the case, to seek revocation, or to continue the order.

## **ANNEX I**

### **Progress Indicators for Home Supervision**

- the absence of further harm to the child
- a reduction or stopping of offending behaviour
- the stage of physical and emotional development attained by the child, confirmed if possible by a developmental medical examination
- the level of risk to which the child is currently exposed in relation to the level previously assessed
- the level of risk the child now presents to others in relation to the level previously assessed
- the response of the child to parental control and discipline
- the level of school attendance (or other provision) compared with previous level
- the level of achievement or progress in relation to assessed educational potential for the child
- the competence of the parents in using new parenting skills
- the social behaviour of the child in the company of his or her peers.

## **ANNEX 2**

### **Suggested Format for Reviews of Children Placed away from Home**

#### ***Information to be recorded prior to the review***

- The name, date of birth, ethnicity and religion of the child. The name and address of the current carers. The date of placement. The type of placement. The name and workplace of the social worker.
- The legal basis for the current work with the child.
- Any significant events or changes since the start of the placement either for the child, his or her parents or the carers.
- Any progress or problems there have been in drawing up or implementing the care plan, and in particular whether contact is working to plan.
- Whether commitments made for the early weeks of the placement in the care plan have been carried through.
- How parties to the review, in particular the child and parents, have been prepared for the review and whether they have provided a report.
- Which professionals have been consulted concerning the review and whether they have provided a report.
- A brief résumé of the overall plan for the child.
- What services have been provided for the child including any services to meet the health, educational, racial, religious, cultural and linguistic needs of the child.
- The dates of visits to the child, his or her carers and his or her family by the social worker.

#### ***Issues for discussion at the review***

- Is sufficient information available concerning the child and his or her family in order to meet the child's needs or is a fuller assessment, including a full medical or educational assessment needed?
- Does the child still need to be looked after? If so for how long? If not what factors, including any resources factors, are preventing restoration and how can they be resolved?
- Is the plan for the child still appropriate or does it need to be amended or made more specific in the light of additional information and knowledge of the child gained since the last review or since the child became looked after if this is a first review?
- Is the overall plan for the child appropriate, clear and achievable? What are the key tasks and who will be responsible?
- Do any changes need to be made to the contact arrangements in order to achieve the plan and/or make the arrangements work better? Would the child benefit from any contact with other people, who have not had contact to date e.g. extended family, neighbours, friends?
- If the child is separated from his or her siblings, should a placement be sought together? Do any changes need to be made to the contact arrangements?

- What long-term needs does the child have in relation to the following issues: health, development and health education, disability, education, career or further education, racial, religious, cultural and linguistic needs, achieving a positive identity and self-esteem.
- What plans have been made to meet these needs and are further plans necessary?
- What contribution are the child's parents or any other people in contact with the child making to the child's day-to-day care? How is this working and should it be altered in any way?
- Are the social work role and tasks appropriate and how will these be carried out until the next review?
- Are the carer's role and tasks appropriate and how will these be carried out until the next review?
- Has the child, and his or her parents, been sufficiently and appropriately involved in decision-making to date? If not, how will they be in future?
- Does the placement meet the child's needs as identified in the above considerations? If not, can it be assisted e.g. through the provision of training, additional support, additional services, to meet the child's needs?
- If the placement is one that is only intended to be time limited e.g. an assessment centre or an emergency foster carer, or is unable to meet the child's needs, are there appropriate and timely plans to move the child to a placement which can meet his or her identified needs and last as long as he or she needs it?
- What is the contingency plan if the preferred placement cannot be found or does not work out?
- If the child is a young person for whom independence is likely in the foreseeable future, what plans have been made to help the young person achieve independence successfully?

## **ANNEX 3**

### **Checklist of Issues for the Reviews of Children in Respite Placements**

- How has the child adapted and responded to his or her periods away from home?
- Have the arrangements gone according to plan?
- Have any health needs arisen either whilst the child has been placed or which have had an impact on the placement? How were they met?
- Have any education needs arisen either whilst the child has been placed or which have had an impact on the placement? How were they met?
- Have there been any significant events either in the child's family or the carer's family which have had an impact on the placement?
- Have the carers and parents been able to work co-operatively together to meet the child's needs?
- Do the parents or the child have any concerns about the nature or quality of the care the child has received?
- Has the social worker carried out any tasks outlined in the care plan? Do the child, parents and carers consider they have received sufficient support from the social work department?
- Are any alterations needed to the care plan?
- Is respite care still needed by the child?

**ANNEX 4****Report to the Secretary of State after a Child who is Looked After has Died**

The report should cover the following matters

- A medical history of the child, distinguishing between the state of his or her health before and after he or she became looked after, and outlining any measures which were taken or not taken to improve his or her health or to alleviate the effects of ill health or disability. The term “state of health” should be interpreted widely to include abuse of drugs, alcohol or volatile substances, attempts at self-harm, mental health problems or any disabilities. The medical history should be accompanied by copies of relevant medical reports and, if available, a post-mortem report.
- A social history of the child, including the circumstances which led up to him or her being looked after, any services which were provided prior to him or her being looked after, and the services provided whilst he or she was looked after. The report should outline any concerns which existed about the welfare of the child or any other difficulties, the progress made by the child, and the effectiveness of the services provided by the social work department and other agencies including the placement or home supervision in meeting his or her needs. The social history should be accompanied by copies of relevant supporting documents, for example, child protection case conference minutes and reports, social background reports to children’s hearings, child care review minutes and reports, the home study on the foster carers or the statement of functions and objectives of the residential home.
- An account of the circumstances of the death. Details should be provided of the medical help which was sought. Details of the general practitioner and other doctors who attended the child during the critical period before death, should be provided. Copies of relevant hospital or other medical reports should be provided.
- Where death was through terminal illness or disability, the account should include details of the progress of the illness or disability, the counselling which was provided to the child, his or her relatives and his or her carers and any attempts which were made to make the child’s death as peaceful and pain free as possible.
- Where death followed an accident, homicide or suicide copies of any available formal statements made in regard to the incident by the social work department or other agencies should be appended. An account should be provided of the circumstances leading to the incident and of any other events which could be connected to it, including previous events concerning the same child, previous events concerning other children in the same placement or previous events concerning local children. Where a Fatal Accident Inquiry has been held and where the sheriff’s determination has been obtained by the local authority, a copy should be provided.
- Where death was the result of child abuse the local authority will want to assure itself and others, including the Secretary of State, that it has acted promptly and competently in the particular case and will want to identify any necessary improvements. There may be public interest which also needs to be taken into account. Local authorities will conduct their own internal

inquiries into the handling of the case. There may also be criminal inquiries, and there may be subjudice considerations. These inquiries may be lengthy but the submission of as full a report as possible to the Secretary of State should not be withheld beyond twenty-eight days. The report of any local authority inquiry should be forwarded to the Social Work Services Group once it is completed.

- Details should be provided of how parents or anyone with parental responsibility were informed of the child's death (or if they were not informed what efforts were made to inform them) where the child was not physically in their presence at the time of death. Information should be provided about the funeral, burial or cremation and any support provided to anyone concerned by the death.

## CHAPTER 2

# Home Supervision

- Section 70(1)* 1. In deciding to make a supervision requirement, a children's hearing may impose compulsory measures of supervision while the child remains at home. Such disposals account for some 70% of all disposals made in recent years by hearings.
- Section 17* 2. The remaining disposals are with foster carers, friends or relatives or in a residential establishment. Children on home supervision have the legal status of children who are looked after and are covered by the Arrangements to Look After Children (Scotland) Regulations 1996 and the associated guidance.
- Section 52* 3. The overall aim of home supervision is to promote beneficial changes in the life of the child while enabling him or her to remain at home. These changes may include reducing offending or reducing the risk of abuse or neglect or any of the other grounds on which the child was referred to the hearing.
4. Home supervision has the following objectives
- to provide effective measures for the care, protection, support, guidance, treatment or control of children living at home with their families
  - to enable children and their families to recognise and tackle successfully the difficulties and problems which led to the child being referred to a children's hearing;
  - to reduce offending behaviour where this is an issue
  - to provide protective measures for the child from others or from himself or herself, where this is an issue
  - to help ensure school attendance where this is an issue
  - to provide programmes of supervision which will maintain the confidence of panel members and the public in the effectiveness of home supervision as a decision of the hearing
  - to provide programmes of supervision which aim to integrate the child in the community and maintain the confidence of the community.
5. All children who are looked after by local authorities are required under the Arrangements to Look After Children (Scotland) Regulations 1996 to have a care plan in place which is reviewed at regular intervals. Children on home supervision must have such a plan covering those matters laid out in regulation 6 and Part I of Schedule 2 of the Regulations. The plan should be drawn up in close consultation - and wherever reasonably practicable in agreement - with the child and family. It should reflect the fact that the day-to-day care is undertaken by the family. The objective is to clarify and strengthen within the care plan the arrangements for home supervision so that all those concerned - the child, the parents and the local authority - know what to expect of the arrangements and what is required of them.

Some children and families may not wish to be involved in the drawing up of the plan. Some children may be too young to take part in drawing up the plan. In these situations a plan still has to be drawn up by the social work department who, where appropriate, will consult with other agencies, such as the school. It should be recorded if it was not possible to obtain agreement to the plan from the child or his or her family.

6. The services required to address the needs of children on home supervision generally are different from those of other children who are looked after but are living away from their parental home. In deciding whether to make a supervision requirement and any conditions related to that requirement, the children's hearing will in the case of children placed on supervision at home have decided that their welfare is best assured by living with their parents. The child's care will remain the responsibility of the family. The social worker and others working with the family need to work closely with the child and family to achieve the objectives for which the home supervision requirement was made.

7. The supervision requirement and conditions imposed by the hearing form the foundation of the care plan. Use of supervision conditions set by the hearing will enhance the clarity and focus of the use of home supervision. The care plan builds on the statutory requirements and will set out in detail how the objectives identified by the hearing are to be achieved. The plan should lay out clearly who is responsible for doing what, and what resources or services are to be employed and should set out expected timescales for the allocation of cases, meetings with the family, drawing up of the care plan and ongoing contact between the social worker, child and family during the period of the supervision requirement.

### **Planning Home Supervision Programmes**

8. The decision to impose compulsory measures of supervision rests with the children's hearing which needs to be provided with a report containing an assessment of the child and family's situation and an indication of the options and outcome considered best suited for the child, supported with reasons. Assessment is dealt with in chapter 1 of Volume 2 of this guidance on children who are looked after by the local authority.

9. Planning for supervision will vary depending on the age and the needs of the child and the grounds for referral. The supervision provided for a young child at risk of abuse will be very different from that provided for a fifteen year old who has offended. If home supervision is to be recommended to the children's hearing, the social worker needs to discuss this with the family and the child taking account of his or her age and maturity.

10. When planning for the home supervision of a child who is the subject of actual or potential abuse, a protection plan will have been developed by an inter-agency case conference, if the child is registered. This will need to be included in the report to the hearing and will be reflected in a care plan. If there is an outline or suggested care plan in existence before the hearing, this should be included in the report to the children's hearing. A report from the child's school should, as a general rule, be provided directly to the hearing. It should give as full a picture as possible of the child's situation as seen in his or her behaviour and performance at school. Liaison between the school and the social worker should take place in the preparation of

the report. This will be particularly important if a school representative will not be present at the hearing.

11. The hearing should be told how home supervision objectives are to be achieved and which techniques and services are to be used. A range of different approaches can be used in any supervision programme and the social worker needs to ensure that they are properly co-ordinated and effective in their delivery. This will require ongoing review. Collaboration between agencies and within the authority is essential.

The methods used in home supervision may include

- **family-based work** which may encompass family casework, family therapy, mediation and behavioural programmes in support of the more effective functioning of all members of the family together
- **one-to-one approaches** involving casework, counselling, problem-solving, personal learning (of skills or knowledge), and work aimed at behavioural change or attitudinal change where the emphasis is on the support and development of the individual
- **groupwork techniques** for children, parents or whole families focusing on mutual support, problem-solving, skills development, confidence building, project development, or similar goals where the contribution of other people facing similar difficulties can be productive
- **resources in the community** for instance family centres, day care, befriending, specialist schooling, home care, community education, intermediate treatment and voluntary groups.

### **After the Hearing**

12. Once a hearing has made the decision to make a home supervision requirement, the social worker allocated by the local authority should

- if possible, at the end of the hearing see the family to discuss the terms of the supervision requirement
- arrange to visit the child and family immediately where there is a significant level of risk, but in any case within two weeks
- work with the family and the child to complete and write up a care plan, specifying the frequency, location and nature of contact with the social worker.

13. The local authority should allocate a social worker to take responsibility for the case, immediately if the level of risk requires this or at least within two weeks if a social worker has not already been allocated.

14. Children's hearings rightly expect that where they impose a requirement for supervision, children will receive the supervision that they require. It is unacceptable for a child not to be seen after a requirement for home supervision has been made. If it is impossible to implement a requirement, for example, by being unable to maintain the agreed contact because of a refusal to co-operate by the child or his or her family, the local authority needs to consider the best way to proceed and should hold a child care review. If the review concludes that the requirement is not being complied with a request for an immediate review by the children's hearing should be made.

## The Care Plan

15. Each child is required under the Arrangements to Look After Children (Scotland) Regulations 1996 to have a care plan in place and the matters to be addressed in the plan are outlined in regulation 6 and Part I of Schedule 2 to the Regulations.

In addition to the statutory matters to be addressed, the care plan should also record

- details of the supervision requirement
- timescale for meeting of objectives and reviews
- how disagreements are to be dealt with
- occurrences that would lead to a review hearing being called
- any other plans (for example, child protection or a Record of Needs) relevant to the child.

16. The care plan should be drawn up by the supervising social worker with the child and his or her family after the hearing and should incorporate any conditions determined by the hearing. The plan should, wherever reasonably practicable, be based on agreement between the child (where of sufficient age and maturity) the parents, the local authority and any other relevant parties, for example, the school. The plan will then represent a written agreement to which all can work. A plan must be drawn up even if the child or his or her family do not wish to become involved in the drawing up of the care plan or if they disagree with some aspect of the plan. The social worker should seek to reach a position of agreement with the child and family on as many of the objectives of the home supervision requirement as he or she can, although the welfare of the child should remain the paramount consideration throughout.

17. Other family members may be included in the care plan and so may the school and other professionals as appropriate and they may also have statutory or agreed tasks. As a written document the plan should wherever possible be signed by each of the parties with a copy to each party.

## Delivering the Supervision Programme

18. The responsibility for ensuring that a supervision requirement is carried out lies with the local authority. Where the care plan identifies roles for departments and agencies, the local authority should ensure they are committed to and undertake their allocated tasks.

The role of the social worker in home supervision is:

- to maintain contact at the level agreed in the care plan
- to undertake direct work with the child and ensure that at all points the child's views are sought and listened to concerning intervention in his or her life
- to work closely with the child's family, listen to their views and to ensure the child's needs are met and welfare ensured
- to oversee the implementation of the care plan and ensure the focus of work is on achieving its objectives

*Regulation 9(2)*

- to co-ordinate the work of other professionals with the child and family as agreed in the care plan
  - to ensure a review of the plan is undertaken at least at the statutory minimum of a first review within three months from the date when the authority began to look after the child and thereafter every six months.
19. Where the supervision requirement is based on offence grounds or where offending is a key issue the social worker should
- maintain the frequency of contact agreed. For the first three months at least fortnightly contact is recommended; there will be cases where more frequent contact is needed
  - monitor whether the child and the family are doing what is required in the supervision requirement and the care plan; this will almost certainly include a focus on the reasons for previous offending behaviour and how to ensure this does not re-occur
  - discuss at once with the child and family any failure to keep the terms of the supervision requirement or the care plan. If this breakdown is serious a child care review should be called and, if the review concludes that the requirement is not being complied with an early review hearing should be requested.
20. Where the child's protection is a key issue the social worker should ensure that the child protection plan remains consistent with the supervision requirement and the care plan. The social worker should also
- ensure that the frequency and nature of contact (whether by social worker, health visitor or other) as agreed in the care plan is adhered to
  - ensure that the family and, where appropriate, the child are doing what is required in the supervision requirement, or the care plan and any child protection plan. If this is not happening, a child care review should be called if that is required. In any case if the conclusion is that the supervision requirement is not working a review hearing should be requested
  - ensure that the child protection procedures of the local authority are activated immediately when required (events that trigger this may be included in the child protection plan and care plan)
  - maintain regular contact with school and health professionals and others identified as outlined in the care plan.
21. Where failure to attend school regularly is the problem, the social worker should
- maintain the frequency of contact agreed
  - ensure that the child and the family are doing what is required in the supervision requirement and the care plan, in particular in relation to school attendance;
  - obtain regular reports from school on attendance
  - discuss at once with the child, the family and the school any failure to meet the terms of the supervision requirement. If school attendance remains poor it may be necessary to call a child care review and if this review agrees that the supervision requirement is not being complied with an early review hearing should be called.

22. During the course of a supervision requirement, the circumstances of the child and family may change. New causes of concern may arise or new information may be obtained and these should be recorded by the social worker. Most changes may be accommodated during the course of the supervision requirement by consulting with the child and family, revising objectives and agreeing to amend the methods and services. Where as a consequence of these changes the local authority is of the view that a supervision requirement should cease or be varied, they should refer the case to the Principal Reporter. *Section 73(4)*

### **Ending and Withdrawing**

23. The overall aim of statutory supervision is to enable the family and child to function satisfactorily so that compulsory measures of supervision are no longer required. The young person and family should therefore know the timescales to which they are working. The ending of compulsory measures of supervision does not mean that contact between the child or family and the social worker should automatically cease. During the final reviews the social worker should discuss whether continuing support may assist the family when statutory supervision ends. Voluntary provision of services could be offered with explicit objectives and methods agreed by the child and his or her family. *Section 73*

24. When a young person ceases to be the subject of a home supervision requirement on or subsequent to his or her school leaving age then the local authority has a duty under the aftercare provisions to advise, guide and assist a young person unless they are satisfied that his or her welfare does not require it. Guidance on Throughcare and Aftercare is provided in chapter 7 of this volume. For those young people on supervision at home the duty to advise, guide and assist applies just as much as for those placed away from home. Their needs may however be different and an assessment of those needs should be made before they cease to be looked after. *Section 22*

25. The resources needed for high quality home supervision involve both direct social work and a range of services for children. The resources available in any one local authority area will vary and competing demands will affect their availability. Local authorities should, where appropriate, establish shared services and services developed in partnership with the voluntary sector. Nevertheless, resources are finite and Children's Panels need to be kept informed about the resources available and any constraints. Discussions between the local authority and the Children's Panel should take place regularly to discuss such matters. *Section 29*

*Section 17(2)*

# **Fostering Service**

## **Introduction**

1. Fostering is one of the services which local authorities provide or commission voluntary organisations to provide, under their duties to children looked after by them. The number and range of children who are fostered in Scotland has grown steadily and it now represents one of the most significant means of looking after children.
2. Fostering is subject to the Fostering of Children (Scotland) Regulations 1996. A number of aspects of foster care placements previously regulated by the 1985 Boarding Out and Fostering of Children (Scotland) Regulations are now regulated by the Arrangement to Look After Children (Scotland) Regulations 1996, notably notifications, placements of siblings, monitoring and termination of placements, medical and dental treatment, and arrangements for reviews.
3. The advantages of looking after children within the community are now well established and the Secretary of State sees the role of fostering continuing to develop. Local authorities should aim to ensure a sufficient supply of well-trained and supported carers to meet the demands which arise from the needs of children in different parts of the country. In recognition of the importance of fostering, The Scottish Office has commissioned a major research project from The University of Edinburgh
  - to establish the characteristics, motives and social circumstances of those who foster and their experience of the services provided by social workers and social work departments
  - to identify the policies, organisation and structures of social work departments concerning fostering.

The outcome of this research will be used to help develop future policy and practice.

4. The term “foster carer” is used in preference to “foster parent” to denote the fact that the majority of children in foster homes are being looked after for a time limited period before returning to their own family and that in most placements the child’s parents retain their parental rights and responsibilities.

## **Recruitment and Approval of Foster Carers**

### ***Publicising the need for foster carers***

5. The planned development of fostering services should be included in the children’s services plan. It should identify the numbers and range of placements

likely to be needed and publicity campaigns should target the full range of people who may be able to provide these placements. Particular efforts may be required to recruit foster carers for older children, children of particular religious persuasion, black children, sibling groups or disabled children and there may be a shortfall of foster carers in particular geographical areas.

6. Whilst some prospective foster carers will approach the agency directly to offer their services, publicity will be required to attract others. Particular groups, such as single people, black people, unemployed people or council tenants, may be under-represented amongst foster carers and this could indicate that they are not aware they are eligible to foster or not aware there may be a need for their services.

7. Publicity should provide a clear picture of the characteristics of children needing foster homes, what the fostering task will entail for the prospective carers, and an indication of the payment, support and training they will receive. Recruitment should be planned and regular. Time limited special campaigns are often successful but recruitment usually declines rapidly unless the campaign is repeated. Publicity can be costly, but there are a number of ways of receiving free, or low cost publicity which should be explored. Local newspapers and radio stations may be willing to publish “human interest” stories about fostering. Existing foster carers’ family and friends are frequently a good source of new recruits and foster carers should be actively encouraged to become recruitment “agents”. Foster carers are often willing to contribute their time to give out leaflets, staff stalls or answer telephones as part of a recruitment campaign. Prospective foster carers may need more than one publicity stimulus before they respond. Publicity in more than one media is likely to be more effective. Joint publicity campaigns by more than one authority to share costs and media sources should be considered.

### **Recruitment**

8. All inquirers should receive a speedy, informative and welcoming response so that their interest is maintained. Even where the inquirer’s preferences do not meet the immediate needs of the service, some may be prepared to consider a different kind of fostering, or adoption, or an alternative to fostering such as befriending schemes, youth clubs or out of school schemes. Making an enquiry to a neighbouring authority or voluntary society should be encouraged if it seems possible that the inquirer’s preferences may meet a need of that agency. Discussion should be honest and positive but avoid unrealistic and unfounded expectations. Recruitment processes should enable applicants to withdraw after learning more of what is involved.

9. Open information meetings, held in local venues and at times convenient for inquirers who are working, are a good way of providing additional information about the fostering task, the approval process, and answering inquirers’ questions. Existing foster carers can help bring the subject to life as can young people who have previously been looked after. An interpreter should be provided where inquirers whose first language is not English are likely to be present. If a campaign is being targeted at a particular language or cultural group, then an information meeting in their language might be arranged in a venue that is familiar to the community. In remote areas, local authorities may consider other methods of conveying information such as a video or audio tape of foster carers talking about their experiences or a visit from approved foster carers.

**Assessment**

10. Agencies should normally aim to complete an assessment within six months of receiving an application. A leaflet outlining the assessment process will be helpful to applicants. This should be translated into other languages if there are applicants whose language of literacy is not English. The application form should be based on Schedule 1 of the Fostering Regulations and applicants should be made fully aware of the range of checks which will be made. Applicants must provide written consent for the Scottish Criminal Records Office to be consulted to check for previous convictions. It is also necessary to check the records of all other members of the household with their permission. The Rehabilitation of Offenders Act 1974 Exceptions Orders apply to such checks. A record of convictions should be discussed with the applicant and will not necessarily preclude approval but will require careful consideration and consultation with senior staff. Authorities should check their own current and previous records in respect of the applicants and other members of the household. Where the prospective foster carer lives in the area of another authority, the views of that other authority must be sought. Where there has been a previous application to foster or adopt, the relevant agency should be consulted. The applicants should also be informed that they will be required to have a full medical examination.

11. Applicants should be asked to provide the names and addresses of two personal referees at least one of whom is not a relative. If they are to be interviewed, it may be helpful to request that referees are within reasonable travelling distance.

12. Training is an inherent part of the assessment and preparation process. Agencies may wish to form preparation and training groups quite early in the assessment process so that more informed discussions can take place subsequently in the individual's home. In such circumstances an applicant's suitability for assessment should already have been established, for instance, through an initial exploratory interview. The aim of this interview is to establish that the applicant has a basic understanding of the fostering task, is applying to undertake a type of fostering that is in demand by the agency and appears not to have a background which would preclude him or her from fostering.

13. Prospective foster carers should understand the need for visits from social workers, the timescale of assessment and the information required. Some applicants may come from a culture where alternative family arrangements are made in a more informal manner. The information required should not be less for such applicants, but careful explanation should be given as to why it is required and possibly some adaptation made as to how information is obtained.

14. Where the applicant is from an ethnic, religious, or cultural minority, or his or her first language is not English, the social worker undertaking the assessment should, if possible, come from the same background. If this is not possible, then expert advice should be sought and, where applicable, an interpreter used. An interpreter should be well prepared by the worker and familiar with the fostering task. The interpreter should be acceptable to the family being assessed as otherwise they may not be willing to divulge personal information. He or she should not, however, be a member of the applicant's family.

*Regulation 7(1)* 15. Authorities are required to obtain information on and consider the range of factors set out in Schedule 1 of the Fostering Regulations in order to determine

whether an applicant can be considered suitable to be a foster carer and whether the household is a suitable one in which to place a child. Where the applicants are a couple, both partners should be assessed and approved. Schedule 1 is not exhaustive. The aim should be to collect all the information necessary to provide a comprehensive picture of the applicant or applicants, their family, their way of life, and their suitability to foster.

16. Regulations specify the categories of people with whom a child can be fostered. *Regulation 12(4)*  
These are

- a man and woman living and acting jointly together, or
- a man or a woman living and acting alone.

Where the household also contains other people, a person can still be approved as a foster carer provided those people are relatives of that person. If a foster carer dies or ceases to live in the household and the result is a household which could not normally be approved under the Regulations, it is not necessary to remove the foster child or children provided the local authority satisfy themselves that the child should be fostered with another member or members of the same household. *Regulation 12(5)*

17. Within the constraints of the Regulations, a wide range of prospective foster carers should be sought for the wide range of children requiring fostering. However, no one has the right to foster and not all applicants will be able to provide a suitable environment for the care and nurture of a child. The decision to approve someone as a foster carer must centre on his or her ability to promote the welfare of a child or children. Where an applicant's attributes or lifestyle could lead him or her, and a child placed, to experience prejudice from the wider society, the social worker should seriously consider the effect such prejudice might have on the child.

18. Medical reports will be the most satisfactory source of information about the health of applicants. Primary health care professionals, such as health visitors, who are familiar with the family may be able to provide additional information. Agencies should ensure that a medical adviser is appointed in order to enable health information to be interpreted and to advise on the extent to which the health of the applicant may affect his or her capacity to act as a foster carer. Health professionals should be advised of the type of fostering the applicant hopes to undertake and what that will entail.

19. The social worker should ask to see birth certificates, marriage certificates and any other important documents which relate to the applicant's history, such as naturalisation documents. Marital status may be significant should adoption ever become a consideration.

20. Social workers should visit applicants on a number of occasions seeing applicants both singly and, where applicable, together and visit on more than one occasion at a time when they can meet the entire household and observe and discuss the relationships of all the members. They should assess the extent to which other members of the household may participate in the care and daily life of a foster child, and the demands which are made on applicants by other members of the household, such as elderly relatives requiring care.

21. The length, strength and nature of the relationships in the household should be explored. Where an applicant is single and living alone, the possibility that he or

she may establish an intimate relationship in future and the effect this might have on foster children should be explored with him or her. The applicant should be informed that if another adult subsequently joins the household, their approval would have to be reviewed.

22. The social worker should assess the suitability of the accommodation as well as access to schools, public transport and other amenities. If the child to be fostered has special needs particular consideration will need to be given to the suitability of the accommodation, its capacity for adaptation, the availability of medical support, and the ability of local schools to provide for the child's special needs.

23. Foster carers' own children often have a significant impact on the success of placements. The social worker should involve them in the preparation process and meet with them on their own to learn their feelings about a foster child or children moving into the family. The impact of fostering on family and social life should also be discussed and considered with the applicant. Written information about fostering could be given to the applicant's children and they could be involved in the training process.

24. Where the applicant has children who are not living in the household, the extent of contact with them and their views on their parent fostering should be considered. When the degree of contact and involvement in the household is significant the guidance in paragraph 10 above will be relevant.

25. Where the applicant has children, the health visitor may be able to contribute to the assessment of the applicant's parenting capacity. The applicant should agree to the health visitor being asked to provide information on the health and development of his or her children and whether there are any difficulties which could affect their ability to foster.

26. The social worker should establish the applicant's attitudes and expectations in relation to contact between children who may be placed with them and their parents, visits by parents and relatives to the applicant's home, attitudes towards different parental lifestyles, the reasons that children may be looked after including physical or sexual abuse, and working with parents to achieve the plan for the child. Applicants need to know that contact may disrupt their family routines and that they will need to be adaptable. The social worker should assess the extent to which attitudes and opinions about the parents of children who are looked after are fixed, or are amenable to change through information and training. Applicants should be aware of the day to day implications of working with parents and prepared to use training and support to achieve the required collaboration with parents.

27. Information is required about the applicant's religion, degree of religious observance, and their capacity to care for a child of a different religion, or from a more, or less, religious background than themselves. The social worker should seek to understand the extent to which religion influences the foster carer's family life, their familiarity and sympathy with other denominations and faiths, and their expectations of a foster child's participation in the religious life of the family.

28. Applicants should be informed of the agency's expectations of how children's needs arising from their racial origins and cultural and linguistic backgrounds can be met. Information should be sought about the applicant's racial origin and cultural

and linguistic background and any special experience and knowledge he or she has that indicates that he or she can provide appropriate care for a child of a particular racial origin, or for a child of mixed parentage, or from a particular cultural or linguistic background.

29. The lifestyle and standard of living of the family will need to be assessed including how employment or unemployment affect family life. Where the principal carer or carers are employed outside the home, what arrangements are available or proposed to ensure proper care for a foster child after school and during sickness and holidays? What childminding or babysitting arrangements do, or will, the family make? What opportunities will be available to the child to associate with other families with children in the community, and to take part with his or her peers in activities appropriate to his or her age and interests?

30. The applicant should be prepared to provide educational support to a foster child who will often have complex educational needs and to encourage the development of special talents and interests, including those which call for additional or out of school arrangements. How could the applicant cope with a child who is excluded from school? Could he or she support a child with special educational needs?

31. The applicant's views on discipline should be assessed. What is his or her approach to dealing with difficult behaviour? If this is outwith the Regulations or inappropriate for children who are looked after can he or she adopt alternative methods? Corporal punishment is inappropriate for children in foster placements and applicants must undertake not to use such a form of punishment. The term "corporal punishment" covers any intentional application of force as punishment including slapping, pinching, squeezing, shaking, throwing objects and rough handling. It would also include punching or pushing in the heat of the moment in response to violence from young people. It does not prevent a person using necessary minimal physical action, where any other course of action would be likely to fail, to avert an immediate danger of personal injury to him or herself, the child, or another person, or to avoid immediate danger to property.

32. Meal times are important social occasions in the life of a child and it is inappropriate for a child to be refused meals as a punishment. Restriction of contact with family and friends should not be used as a punishment. Any punishments in which the child is humiliated are not acceptable.

33. Once the applicant and his or her family have been interviewed, have attended training and preparation groups, the views of referees have been sought and other checks and reports have been received, the local authority must form an overall view of

- the applicant's experience, attitudes, expectations, understanding, and perception of fostering
- the applicant's capacity to work in partnership with a child's family
- the applicant's capacity to provide a foster child with protection, nurture, and opportunities for development
- the applicant's ability to work with the agency
- the applicant's preferences and suitability as a foster carer for any particular group of children or for any particular fostering tasks.

34. A comprehensive home study report prepared by the social worker, such as BAAF Form F, should be the basis of the decision to approve or not. Terms of approval should include the particular type of foster placement, the recommended number of children, and whether approval is for children of a particular age group. The number of children for whom a foster carer may be approved is not regulated. However, the aim should be to provide children with individual care and attention rather than an institutionalised experience. Specification of numbers, ages and types of fostering will arise both from the assessment and from the choice of the prospective foster carer. Applicants may be asked to write parts of the home study themselves. However, the social worker remains responsible for the contents of the home study and should provide an overall assessment plus additional material if issues have been missed, need exploration in greater depth, or the applicant's perceptions and the social worker's perceptions differ. The home study, with the exception of any material provided in confidence, should normally be shared with the applicants.

**Assessment of relatives and family friends as foster carers**

35. Many children live temporarily, or sometimes permanently, with their relatives or family friends without any intervention by the local authority. For other children, because they are already known to the social work department or because a parent or child approaches the social work department for help, the social work department may play a role, by agreement with the parents, in facilitating or supporting a child to live with his or her relatives or friends either by helping to negotiate the arrangements or providing some financial support or both. The child is not looked after by the local authority in either of the above situations and the carers do not need to be approved as foster carers.

*Regulations 3 & 7* 36. Where, however, a child is looked after by a local authority, and is placed with a friend or relative, the friend or relative must be approved as a foster carer except

- Regulation 14*
- where the placement is an immediate placement and lasts for less than six weeks (see paragraphs 97-100 below)
  - where the placement is a condition of a supervision requirement made by a children's hearing (see paragraphs 116-117 below).

37. It will be unusual for local authorities to provide accommodation with relatives and friends under section 25. A parent is only likely to require such accommodation from the local authority for his or her child because there is no one in his or her family or friendship network able to provide a home for the child. However, such placements may occasionally be necessary and appropriate and if they extend beyond six weeks, the carers will need to be fully approved as foster carers.

38. Where the local authority has full and sole responsibility for the welfare of a child under a parental responsibilities order, any carers with whom the child is placed should be approved foster carers. For some children, who are subject to a parental responsibilities order, the most appropriate placement for them will be to remain with or move to relatives or friends. Where a child who is made subject to a parental responsibilities order, is not already in a permanent placement, the local authority should explore the possibility of placement with relatives or friends.

39. The process for approving relatives or friends as foster carers is similar to that for approving any other foster carers. However, different approval criteria may apply. The local authority needs to be satisfied of the prospective foster carer's ability to provide appropriate care for a child or children who are already known to him or her and approval will only be for that child or children. It may not be appropriate or necessary for relatives or friends to attend preparation and training groups although there are likely to be issues covered in the groups which need to be discussed with relatives or friends before their approval. Recommendations for approval of relatives and friends as foster carers must be made by the fostering panel.

40. Assessment of relatives or friends as foster carers must include consideration of the extent to which the placement will affect the child's other family relationships, including contact with either or both parents. Where such contact has been terminated or restricted, the local authority department will need to consider with the prospective foster carers any particular difficulties they may encounter in maintaining any conditions or restrictions on contact. Similarly, relatives or friends may feel their loyalty strained where they are given confidential information not available to other family members, just as they may be reluctant to disclose to the social work department information they already possess. The social work department should be ready to provide appropriate support where difficulties arise.

### **Approval**

41. Each local authority or voluntary organisation must appoint a fostering panel, or panels, which consider whether to recommend approval of foster carers. Where the Panel recommends approval, they must also recommend whether approval is for any child, for certain categories of children, for instance in a particular age range or those needing emergency care, or for a particular child or children, for instance, a child already known to the prospective carers or one who has been featured in an advertisement. It is unlikely that foster carers will be given completely open approval for any child for any duration. Most prospective carers will be assessed as having strengths and an interest in a particular age range or a particular type of fostering. The fostering panel recommendations are made to the agency which must make the decision. This responsibility is normally delegated to a senior manager with child care experience. He or she will not usually be chairperson of the Panel.

*Regulations 4 & 6*

42. The numbers, qualifications and experience of individual members of the fostering panel must be such that the Panel can effectively discharge its functions. The local authority should decide the number of people to be appointed, of which one will be a medical adviser. It will be good practice for there to be at least one man and one woman and for three people to represent a quorum. Whilst the medical adviser's written contribution will be important in all cases considered by the Panel, it is unlikely to be essential that he or she is present at the Panel except in the fairly small number of cases where medical issues are central to the decision as to whether or not to recommend approval.

*Regulation 5*

43. The chairperson should have considerable child care knowledge and be experienced and skilled in chairing meetings. Members with parenting and foster parenting experience will be valuable. The Panel should, where possible, reflect the backgrounds and heritage of the children who are likely to need placement and the foster carers likely to seek approval.

44. Some agencies choose to have some or all of the membership of their adoption and fostering panels in common. This is acceptable, provided that their role and function are distinguished and that the meetings are minuted separately.

45. Whilst recruitment to the fostering panel is normally achieved either through the prospective member holding a particular position or through recommendation by an existing panel member, this may not achieve a wide enough balance of panel members. Limited advertising to voluntary and community groups, followed by an interview and induction process can bring forward effective panel members who were not previously known to existing panel members and will reduce the possibility of the Panel becoming unrepresentative.

46. The terms of appointment should be provided in writing to panel members, including the duty of confidentiality to which they should sign their agreement. Time-limited appointment, for say two or three years, can be helpful although the option of renewing the appointment of panel members should be retained. Not all panel members should rotate off the Panel at once - there is a need for consistency and continuity of expertise. The agency should decide by whom the panel members are formally recruited, appointed and re-appointed. Fostering panel members should have briefing and in-service training.

*Regulation 6(3)* 47. The role of a Panel may be extended to include consideration, advice and recommendations in relation to decisions by the agency other than approval of foster carers, such as linking and placement, consideration of possible applications by foster carers for residence orders, and decisions in connection with reviews of foster carers. Foster care frequently calls for weighing of complex issues to ensure that the child's interests are best served and the Panel will have the required expertise to consider these decisions. Fostering decisions must always be made with care but they must often, in the interests of the child, be made speedily. Therefore, whilst all foster carer approvals must be recommended by the Panel, it will not be appropriate for all recommendations concerning foster placements to be made by the Panel. Agencies will need to develop a range of decision-making procedures for these different circumstances, with guidelines to ensure professional accountability and managerial responsibility as well as the maintenance of standards.

*Regulation 7(1)* 48. In reaching a decision as to whether or not to recommend approval of foster carers, the fostering panel must consider the home study report. It will be good practice routinely to invite prospective foster carers to meet with the Panel. The Panel's recommendation will be reported to the designated decision-maker who will decide whether or not the prospective foster carer is a suitable person with whom to place children and the terms of the approval. A summary of the discussion of the Panel should be recorded as well as a record of decisions made. This will guide the decision-maker where he or she is not a member of the Panel, may provide useful supplementary material about the foster carer when a link with a child is being considered, and will be essential if a prospective foster carer wishes to complain about, or request reconsideration of, a decision of the Panel.

*Regulation 7(4)* 49. Agencies should give notice in writing of the decision on approval. The letter should usually be followed up by a visit from a social worker to ensure that its contents have been understood. The notice of approval should state the terms of approval. Except where breach of confidence would occur, the reasons for refusal should be explained. Information concerning the agency's complaints and

reconsideration procedures should be included with the written notice. The outcome should also be notified to any professionals who have contributed to the assessment.

### **Review and termination of approval**

50. Agencies are required to review the approval of foster carers at least once a year. Annual review will be appropriate in most cases, although changes of circumstance such as change of address, death of a member of the family or a significant change in health will often call for an additional review. A review of approval may be needed after an investigation of allegations against a foster carer made by a child, or parent, or other person. The agency review procedure should be set out in the foster care agreement. (See paragraphs 59-60 below.)

*Regulation 10*

51. Reviews should focus on the foster carer and his or her progress over the previous year rather than solely on the current placement and should, if possible, be carried out by a worker with responsibility for the fostering service not the social worker of a child in placement. Consultation with the social workers of all children placed during the previous year will be necessary to establish how the current and any previous placements made during the year have worked out and to discover the views of the children and their parents. A visit to the foster home should provide the opportunity for airing and discussion of a foster carer's view of the service offered by the authority and any difficulties experienced. Reviews will not normally necessitate the checks outlined in paragraph 10 being taken up again unless a particular issue of concern has arisen during the year. For instance, a foster carer who has experienced serious or chronic ill health could be asked to have a medical update. The terms of approval and the training and support needed by the foster carer should be reviewed. Non-use or underuse of a foster home are also factors to investigate at the review as the process should contribute to an understanding of the strengths and weaknesses of the fostering service as a whole.

52. Existing placements of a child in a household approved under the 1985 Regulations come within the scope of the new Regulations. During the first twelve months of the new Regulations the agency must make arrangements to review the approval of their foster carers in order to ensure that they are aware of, and can implement, the Regulations and this guidance. Foster carers may need additional information, support, or training to do this.

53. The extent to which reviews should include a comprehensive reassessment of a foster carer will depend on individual circumstances. An agency may decide that an extensive reassessment is needed where it is agreed that a foster carer will seek approval for a different kind of placement or to increase his or her approved numbers of children, or where it is the first review and it is a long time since he or she was initially approved.

54. Any other agency which has a child in placement in the foster home or which has used the foster home within the last year should be invited to give their views which should be taken into account. Reviews can be important means of maintaining a good understanding between agencies and identifying and resolving any difficulties that may arise.

55. The recommendations of reviews do not need to be considered by fostering panels. However, agencies may well decide that it is good practice for their fostering

panel to consider any recommended termination or major change of terms of approval. Consideration should be given to providing the panel with an annual report on the outcome of reviews so that members of the fostering panel are kept abreast of developments in the foster homes they have previously approved and in the fostering service as a whole.

*Regulation 10* 56. Notices of re-approval, revision of approval, or withdrawal of approval must be sent to the foster carer and to any other authority using the foster home. As a matter of good practice, the outcome of the review should normally be discussed with the other authorities before a final decision is reached. If the outcome is that a recommendation for termination of approval is to be made, plans for ending the placement of any children placed in the foster home will need to be agreed at a child care review and where relevant, the children's hearing. This will not apply if the child has to be removed immediately to safeguard and protect his or her welfare. In such a situation, a child care review should be held and, where applicable, a report made to the Principal Reporter as soon as possible thereafter. The foster carer's right to complain about or ask for reconsideration of any decisions resulting from a review must be explained to him or her. If a foster carer decides to make a complaint or ask for reconsideration, the child may be allowed to remain in the placement until the complaint is investigated, or the decision reconsidered, provided this will not be detrimental to his or her welfare.

*Regulation 10(5)* 57. Where a foster carer notifies the local authority that he or she no longer wishes to foster or the local authority becomes aware that this is the case, they should terminate the approval from a date specified in the written notification to the foster carer.

58. The procedure to follow where a foster carer is approved by more than one local authority and an authority intends to vary or terminate approval is described in paragraphs 114 and 115.

### **The foster care agreement**

*Regulation 8* 59. The approving agency is required to enter into a written agreement with a foster carer at the time of approval. This provides written information about the terms and conditions of the partnership between the agency and the foster carer. It also provides foster carers with written confirmation of matters which should have been discussed and agreed during assessment.

*Regulation 8* 60. The matters and obligations to be covered in the foster care agreement are set out in Schedule 2. These are minimum requirements. Agencies should not restrict themselves to these matters but should ensure that foster carers have a full understanding of what is expected on behalf of both foster carer and agency when a child is placed, in relation to the requirements of Regulations, this guidance and the agency's policies and procedures. A foster carer handbook, issued and regularly updated by the agency, can be very helpful in this regard. The agency and the foster carer will also enter into a specific foster placement agreement when an individual child is placed.

### **Training and support of foster carers**

61. Training enables the foster carer to learn more about foster care and what is required of a foster carer. The trainers should inform participants how non-

attendance will affect their approval and whether their contributions in the training are being assessed. Where applicants live in remote areas and attendance at a training group proves difficult, methods of conveying the training programme, such as distance learning packs, should be devised. After approval, the social worker and foster carer should agree on what further preparation and training is needed, before a child is placed and continuing beyond placement. The early months as a foster carer can have particular importance as a period when skills and confidence can develop rapidly or, on the other hand, may be undermined. Opportunities for training and support should, if possible, be provided at three levels

- support, discussion and evaluation in the home
- participation in foster carer groups
- participation in formal training events with other foster carers and social workers.

62. Social workers themselves may need training in training methods and they will need access to appropriate training resources to meet the needs of foster carers. National Foster Care Association training packages have proved valuable in training programmes. The help of health and education professionals as well as experienced foster carers should be sought in local training schemes. Reading matter should also be available for foster carers.

63. Preparation and training programmes are likely to contain some common themes, such as

- providing safe and appropriate care for children who may well have been abused or neglected
- responding to hitherto undisclosed abuse
- working with parents and facilitating contact arrangements
- health issues in fostering and minimising health risks for both the child and the foster family
- ethnic, religious and cultural aspects of fostering
- confidentiality and safekeeping of documents
- working in partnership with the agency.

Additionally, more specialised training and preparation may be needed for foster carers undertaking particular tasks or participating in special schemes, for example, caring for young offenders or children with disabilities or particular health problems.

64. Opportunities for continuing training should be available for all foster carers. Many foster carers, as they become more experienced, will welcome the opportunity to undertake more complex placements, others will want to change the type of fostering that they do or the age range that they foster, and others will find that as their foster children grow and develop the problems they face change. Foster carers will often need training in order to give evidence in court, take part in a children's hearing or participate fully in a review. Foster carers should be encouraged to take part in the agency's staff training programme, but courses specifically for foster carers, at times that are convenient for them, should also be organised. Some experienced foster carers may welcome the opportunity to undertake a Scottish Vocational Qualification (SVQ).

65. Foster carers need support and help with difficulties that arise from the special demands of the fostering role, in addition to help that may be needed in connection with the care of a particular child. Fostering makes demands on the whole family and can be the cause of stress in family relationships. Agencies should ensure that appropriate support, advice and assistance are provided to the foster carer and foster family. A foster carer may need help in learning to deal with ambivalent attitudes from neighbours or an occasional lack of understanding and co-operation on the part of other agencies and services. Authorities can help by demonstrating their own confidence in foster carers and by making sure that professionals in other services know of a placement and of the foster carer's responsibilities.

66. The role of the child's social worker includes support, advice and assistance to the foster carer, in relation to the particular child. In addition, foster carers value and benefit from having their own social worker to whom they may turn for general advice and support. This worker should see that foster carers have access to support which is available from other sources. Within the fostering service foster carer groups can be a positive source of support, especially to less experienced foster carers. Foster carers should be advised of other services which are available to all parents in the community.

#### ***Investigation of allegations about foster carers***

67. Procedures to investigate allegations about foster carers must first and foremost protect the child's welfare. Where the allegation is of abuse or neglect, the investigation must be conducted within the local authority's child protection procedures. Such an investigation has special features when an allegation concerns a foster carer. The investigation must be approached in a measured and thoughtful way but should be as thorough as if the alleged event had happened in the child's own home. Welfare and safety considerations and the views of the child, should dictate whether it is in the child's best interests, and the best interests of other children in the household, for the child to remain in the foster home while an investigation takes place. If the child, or other children, remain in the household, both they and the foster carers will need additional supervision and support.

68. Foster carers, like other families, find investigations stressful and they should receive appropriate information and support. The child's social worker will need to give priority to the child's welfare and protection. It will be difficult for him or her to also provide support to the foster carers. The foster carer's social worker should advise and support the foster carer but his or her paramount interest must also be the child's welfare and the foster carer needs to know that the worker's support will not be unconditional. Consequently, foster carers may also need separate advice, support and advocacy. This may be available from the National Foster Care Association or from a local foster care group.

69. Even if the outcome of the investigation exonerates the foster carers, it may take a considerable period for them to rebuild their confidence in themselves and the agency. They are likely to need additional support during this period. In other cases the allegation will be proven and, except where the allegation is very minor, it will normally be necessary to terminate approval. Often, however, the outcome will not be clear - it may be one person's word against another with no forensic evidence available, or the foster carers may accept that an allegation has some substance but will consider it is exaggerated. In these circumstances, the agency will need to assess

the risk and reach a balanced judgement as to whether the foster carers can care satisfactorily for children. In so doing they will need to take account of

- the seriousness of the allegation
- the plausibility of its refutation
- whether the person making the allegation may have a reason for making a mistaken, false, or exaggerated allegation
- the previous fostering history of the foster carers
- the strengths and weaknesses of the foster carers
- whether there were any particular stresses in the placement which could have led them to act inappropriately (for example a lack of support or over use of the foster carers by the agency).

70. Where it proves necessary to review the foster carer's approval and this leads to a recommendation for alteration or termination of approval, the reasons and the conclusions the local authority have reached should be explained carefully to them. They should be told of their right to complain or ask for reconsideration if they are unhappy with the outcome.

### **Complaints, representations and reconsideration**

71. Under the Social Work (Scotland) Act 1968 and the Social Work (Representations Procedure) (Scotland) Directions 1996, foster carers have the right to make representations, including complaints, concerning the authority's discharge, or failure to discharge any of their legal functions in relation to a child. Foster carers do not explicitly have the right to make representations about decisions made about their own approval, review, or termination of approval.

72. Given the magnitude of the decisions that they can make concerning foster carers, including in some cases the possibility of terminating their paid occupation, it will be good practice for agencies to establish a formal procedure whereby decisions concerning the approval, alteration, or termination of approval of foster carers or prospective foster carers can be reconsidered.

### **Payment of foster carers**

73. Regulations enable local authorities to pay foster carers an allowance for fostering a child. The regulations differentiate between *Regulation 9*

- a fixed allowance applicable in the case of all children for whom the local authority has responsibility under Fostering Regulations *Regulation 9(2)*
- a rate applicable to certain categories or circumstances of case
- amounts relevant to the individual needs of a particular child.

The local authority may take into account the needs and circumstances of the foster carer with whom the child is placed in determining what allowance to pay.

74. The Regulations allow considerable flexibility for local authorities to decide their own types and scales of payment depending on local child care needs and circumstances. The following considerations should inform these decisions

- Maintenance allowances should reflect the true costs of caring for a child of a particular age including recognition of the costs of holidays, birthdays and Christmas (or other significant religious occasions for children who do not come from Christian backgrounds). The additional costs of fostering such as phone calls to, or meals provided for, relatives and social workers, and transport to meetings and contact visits should also be recognised. Where relatives or friends are approved foster carers for a child it is unlikely that the cost of caring for a foster child will differ markedly from that of other foster carers.
- Some children, because of particular attributes or aspects of their behaviour, are more expensive than the average child to keep. For instance, an abused child may be more destructive of their clothing or belongings, a disabled child may need to be transported to many medical appointments, a child with sickle-cell anaemia may need additional heating, or a child who is very insecure may be enuretic and create additional laundry costs. Talented or gifted children may also require additional payments. For instance, a musical instrument, music lessons, and regular transport to an orchestra or band for a musical child.
- Fostering is often a difficult, demanding and time-consuming task. Local authorities are empowered to financially recognise the work of foster carers by either paying them a fee, a salary, or an enhancement which has a reward element within it. The complexity and time consuming nature of foster care means that, in the majority of foster homes, it is necessary for one carer to be at home full-time. Payment of a reward element can both attract foster carers, particularly for children and young people who in the past were seen as unfosterable, and can assist in retaining their services. It means that there is less economic necessity for the foster carer to seek outside work, that he or she feels rewarded at times when there is little positive feedback from the child, and that he or she feels more recognised and valued by social work and other agencies.
- Where an enhancement consists of, or contains, a reward element, careful consideration needs to be given to schemes where, if the foster carer is successful in reducing the child's problems he or she loses the reward element. This can be both a disincentive to achieving or being honest about progress and can create financial difficulties for the foster carer.
- Whilst there will be some local variations, the costs of fostering will not differ markedly across Scotland. It will aid recruitment and retention, be more comprehensible and fair to foster carers, and prevent competition emerging between local authorities if current COSLA-led national agreements on rates of payment are continued and, if possible, extended.
- Local authorities may take into account the needs and circumstances of the foster carers with whom the child is placed. This should not occur routinely, for instance by applying some form of means testing before an additional allowance is paid. It should, however, give local authorities sufficient flexibility, in the diverse family and financial circumstances they will encounter in foster care, to ensure that the best interests of children are met.

75. Foster carers are often immediately reliant on the payments they receive to care for the child. Local authorities should have systems which ensure prompt and

accurate payments. Foster carers should receive information about fee, salary, and/or allowance rates and information concerning eligibility, and the process for, receiving an enhancement or single additional payment. A fees and allowances leaflet should be issued annually to foster carers and social workers at the time that payments are updated. Where foster carers are likely to attract tax or National Insurance liabilities, because they are being paid a reward element, they should be given written guidance as to the likely nature of their responsibilities and how best to approach them.

76. In addition to maintenance and fee payments, the local authority should consider with the foster carer whether any equipment such as bedroom furniture, prams, cots and initial clothing is needed to facilitate the placement. Authorities should be realistic and sensitive in responding fully and promptly to a need for equipment, bearing in mind that the responsibility for providing for the child lies with the authority, not the foster carer. Sibling groups and children with special needs will often need a good deal of equipment.

77. Foster children often cause accidental, or sometimes wilful, damage to the foster carer's house, furniture or belongings. They may also steal from the foster carer. The local authority should check that foster carers are adequately insured at the time of approval, if necessary recompensing them for higher premiums. Where, however, their insurance company will not cover a particular loss, they should be recompensed by the local authority.

78. Where a local authority places a child with a foster carer who is approved and supported by a voluntary agency, the voluntary agency will need to follow the above guidance for the aspects of payment for which it takes direct responsibility and then recharge the local authority. Where an aspect of payment remains with the local authority, for instance payment of an initial clothing grant, the local authority and voluntary agency will need to reach agreement as to their mutual expectations.

## **Placing a Child with Foster Carers**

### ***The decision to place a child in a foster placement***

79. The chapter on children who are looked after provides the overall framework in which decisions are made concerning the type of placement which would best meet a child's needs. Once a decision has been reached that a foster placement is the most appropriate placement, then consideration needs to be given as to the factors and attributes in a particular placement which are necessary to promote the child's welfare.

*Regulation 12(1)*

80. Reasonable proximity to the child's birth family, or at least convenient public transport services, are desirable in placement where contact with the child's family is part of the care plan. The foster carers should be able to accommodate contact at the frequency the child needs, make birth family members welcome and help them to feel relaxed with their child. Foster carers can often model child care skills to parents and help them to cope with behaviour they have previously found difficult. Where a foster home is not within easy travelling distance, the social worker may need to organise transport so that contact is not reduced by factors outside the birth family's control.

81. Placements with siblings are addressed in the chapter on children who are looked after. The advisability of placement with other, unrelated, children also needs to be considered. Would it be helpful or at least not detrimental for the child to have other children in placement, and, if so, of what age, or would it cause difficulties for the child or for the other children? Would there be any impact on the safety and well-being of the foster carer's own children and other children in placement?

82. In order to minimise disruption for the child and keep him or her linked in to his or her local community and peer group, continuity should be maintained in schooling, religious observance, and out of school activities. Special transport arrangements may need to be made. Where, however, a foster home is intended to be permanent, integration into his or her new neighbourhood by, for instance, a move to the local school will often be important and appropriate for the child. The child's views should be sought and taken into account before these decisions are taken.

83. A child's needs are most likely to be fully met in a family that matches his or her racial, religious, cultural and linguistic background. Children should be placed in foster homes which can address their identified needs and which provide a familiar way of life, behaviour, attitudes, expectations, religious practices, language, food and cultural activities. Feelings of being the odd person out are then likely to be minimised, and therefore the child can feel more at home. Where it proves impossible to match all the aspects of a child's heritage in the foster placement, then it is essential that the foster carers and social worker have, or are willing to obtain, knowledge and understanding of the child's heritage and that they are prepared to help the child maintain his or her heritage. Ways of doing this could be taking them to language classes and/or supplementary school, taking them to a familiar place of worship, recruiting a befriender from the child's community, adapting the family's diet to include dishes with which the child will be familiar, and having regard to the considerations outlined in paragraph 82. Ethnic minority children may encounter prejudice. This is not necessarily reduced by placing an ethnic minority child in an ethnic minority foster home, but it does mean that his or her carers will have experience and understanding of what is happening, and may be more likely to know how to deal effectively with racism. White foster carers may need help to recognise the impact of racial prejudice and the damaging effect it has on the child and to develop, and help the child develop, effective ways to handle it.

84. Except where the child is looked after in an emergency, an assessment of the child's health needs should be available for the foster carer. This is covered fully in the chapter on children who are looked after. If the child has been placed in an emergency, then it is essential that the medical assessment is undertaken as soon as possible after placement. Birth parents will also be an important source of health information. It is important that the foster carer is aware of the child's health needs and has the ability, or can be supported, to meet them. This will be particularly important where a child has a disability, a chronic or terminal illness, or previously undiagnosed or unmet health care needs. Some foster homes may be hazardous to particular children. For instance, children may be severely allergic to pets in the household or to some other allergen and foster carers who smoke are often not considered suitable for very young children or children with respiratory conditions such as asthma. Social workers should check that foster carers always have medicines

and other hazardous materials stored safely. Information about medical consent is contained in the chapter on children who are looked after.

85. Where the child needing placement has a disability, the placement should be suitable to meet the child's particular needs, should minimise the effects of his or her disability and should help him or her lead as normal a life as possible. For physically disabled children, access from outside the home and within it will be important and aids and adaptations may need to be provided. This may also be an issue if a child has a disabled parent visiting. Where a child cannot, or has difficulty in, communicating verbally, carers will need to be found who know, or are willing to learn, the appropriate sign or symbol language. Children with learning difficulties will need to be matched with carers who understand their needs and are able to help them achieve their potential.

86. Children who have, or are likely to develop, a chronic or terminal illness such as HIV/AIDS, muscular dystrophy or cystic fibrosis can be both very stressful and very rewarding for foster carers to look after. It is important that the carers are knowledgeable about the likely progress of the illness, and any hygiene or treatment issues. They need to know that practical advice and emotional support will be readily available to themselves and their children throughout the course of the placement and, where applicable, after the child's death. Foster carers should be informed of the financial benefits they are able to claim in respect of themselves and the child when they are caring for a disabled child.

87. Placement of a disabled child or a child with a chronic or terminal illness, should, wherever possible, mean minimal changes to the child's special educational provision, therapy services and specialist medical care. Unless a placement has to be made in an emergency, education and health advice should be obtained before a placement is made.

88. Often, there may not be a choice of foster homes available, or the speed with which a placement is needed may not allow a careful matching process to take place. In these situations, differentiating essential attributes of the placement from desirable attributes of the placement will help to make the decision as to whether a placement is acceptable. When making the foster placement agreement and at the first review, any drawbacks in the suitability of the placement should be discussed and where possible plans made to overcome them. If it is not feasible to overcome them, and the placement is considered unlikely to meet the child's needs, then a planned move to a more suitable placement should be made.

89. Local authorities are required, when providing services, to take account of the child's views subject to his or her age and understanding and this applies to his or her views on foster care. The more mature the child, the more fully the child will be able to enter into discussion about plans and proposals. Children need information and explanation so that they are in a position to develop views and make choices. Some authorities provide preparation and information groups for children as part of preparation for long term foster care. With young children the social worker should communicate with the child and assess the child's feelings. Providing children with reassurance and helping them with their anxieties about foster care or a particular placement is essential to the choice and success of a placement. However, responsibility for making decisions lies with the authority and children should not be allowed to feel overburdened with responsibility.

**The foster placement agreement**

*Regulation 12(2)* 90. A local authority is required to enter into a written placement agreement with the foster carer. Where a local authority places a child with a foster carer approved by another authority or by a voluntary organisation, the other agency should also be a party to the agreement. The matters to be covered in the foster placement agreement are set out in Schedule 3 of the Regulations. While the foster care agreement covers general matters relating to the foster carer and to all placements, the foster placement agreement will set out the agreed arrangements for the care of the individual child placed. It also serves as confirmation of what is expected from the foster carer and the authority and what has been agreed with the parent. Different requirements apply when a child is placed in an emergency or in an immediate placement (see paragraphs 96-100 below).

91. The foster placement agreement must include a statement of the information which the authority considers necessary to enable the foster carer to care for the child. This includes

- the reason the child is to be looked after, the authority's plans for the child and the objectives of the placement
- the legal basis on which the child is placed
- the role of the child's parents, the arrangements to enable them to continue their role in the child's life including contact, and who has parental responsibilities for the child
- the child's personal history, religious persuasion, cultural and linguistic background and racial origin
- the child's state of health, need for health care and surveillance, and arrangements for medical consent
- the child's educational needs.

The statement should be provided at the time of the signing of the agreement or, where this is not possible (because the information is not yet available) as soon as is practicable.

92. The foster placement agreement must also include

- the financial arrangements for the placement
- the arrangements for medical consent
- arrangements for other activities for which consent needs to be obtained, for instance, school outings
- the circumstances where it is necessary to obtain advance approval from the local authority either for the child to stay away from the foster home or for someone else, other than the foster carer, to care for the child
- the arrangements for and frequency of social work visits and child care reviews
- the expectation that the foster carer will comply with the terms of the foster carer agreement as they apply to the foster placement agreement, and of their co-operation with any arrangements made by the local authority.

93. This requirement acknowledges the need for communication of essential information if there is to be an effective partnership between parents, agencies and

foster carers. Foster carers need to have the fullest possible knowledge and understanding of the background and history of children on whose behalf they are undertaking an exacting and responsible role and who need their skilled help to cope with living away from home. The collection of the information for the statement, where the information is not already available, is a high priority. The social worker should discuss with the parents and any other previous carers, and with the child according to his or her understanding, the information which is to be given to a foster carer and why. Where, exceptionally, there is a special reason for withholding significant information, the reason should be recorded on the child's case record.

94. The purpose of providing information is to enable the foster carer to both maintain a child's daily routine and care appropriately for the child throughout the placement, though in a very short-term placement, less information about the child's history may be needed. There is no requirement for written information to be issued when a child is placed under the emergency or immediate placement provisions but authorities should make sure that the emergency or immediate carer has sufficient information to care for and help the child. If the child remains in placement, full written information should be supplied as soon as is practicable.

*Regulations 13 & 14*

95. Foster carers are required to undertake to treat as confidential any information about a child or his or her family given in connection with a placement. Foster carers' training should include advice on the maintenance of confidentiality, dealing with questions from family and friends and safekeeping of documentation connected with the child and the placement, which should be returned to the authority when the placement ends.

### **Emergency placements**

96. Where a child needs to be placed in a foster home urgently, for example if a child protection order is obtained on a child who has not previously been known to the local authority or a placement has broken down suddenly at a weekend, the emergency placement provisions apply. Information may well be limited and speed will be of the essence in making the placement. The written agreement made with the foster carer for the first seventy-two hours of placement need, therefore, specify only that the foster carer will

*Regulation 13*

- care for the child as if he or she were a member of the carer's family and in a safe and appropriate manner
- permit anyone authorised by the local authority to visit the child at any reasonable time
- allow the foster child to be removed at any time by the local authority if the local authority considers the placement is no longer in his or her interests
- ensure that any information concerning the child or his or her family which is given in confidence remains confidential
- allow regular contact between the child and anyone with parental responsibilities where this is agreed by the local authority.

A full foster placement agreement must be made with the foster carer within seventy-two hours. An emergency placement can only be made with an approved foster carer.

**Immediate placements with persons not approved as foster carers**

*Regulation 14* 97. Immediate placements may be made with a relative or friend of a child, provided the local authority is satisfied that the placement will be in the child's best interests and there are good reasons why it would not be appropriate for the child to wait in another placement while the foster home is approved. The risk that issues will emerge in the assessment of carers which mean the child may subsequently have to be removed, needs to be taken into account.

98. Prior to placing the child in an immediate placement, the social worker must

- interview the proposed carer
- confirm that the person is a friend or relative
- inspect the accommodation
- obtain information about any other persons living in the household
- reach a written agreement with the proposed carer. This is the same written agreement as for an emergency placement (see paragraph 96 above).

Whilst not explicit within the regulations, it would be good practice to seek police checks on all members of the household, and a health reference on the prospective carers. Unless they subsequently go through the full approval process, such carers do not need to be approved by the fostering panel. Social work departments will, therefore, need to establish, or confirm, current management procedures for approving such placements.

99. Except where a child is placed with friends or relatives by a children's hearing (see paragraphs 116-117 below), an immediate placement may last no longer than six weeks and it may only continue beyond six weeks if during that period the relative or friend is approved as a foster carer. If difficulty is experienced in obtaining checks or references within the six week period then senior managers in the local authority must resolve the problem with their counterparts in the relevant agencies.

100. For children who are placed with persons who are not approved foster carers the frequency and purpose of visits by the social worker should be determined according to the needs of the particular child concerned. It should not be assumed that they require less frequent visits than they would if placed with foster carers approved under regulation 7.

**Preparation and introduction of the child and carers**

101. All children need preparation for placement whether the move is planned over a number of weeks, or takes place the same day in an emergency. Even in emergency placements children need an explanation of why they are moving placement and some details of the placement to which they are moving. It is helpful if pen pictures and photographs of all foster carers are available so that these can be used, even in an emergency move, to prepare the child.

102. In non-emergency placements, the child should be prepared using methods suited to his or her age and development. The younger the child the less likely it will be that explanation alone will suffice. Artwork, games, role plays and video work will often help and can also benefit older children and teenagers. These

methods, either used individually or in groups, often provide a less threatening process and can allow children to talk more openly about their thoughts, feelings, hopes and fears. This preparation may still be needed where placement is with a friend or relative, particularly if there have been considerable changes in the family since the child last lived there or was in regular contact.

103. The ability to introduce the child to a placement and the length and intensity of the introduction, will depend on the urgency, purpose and intended length of the placement, and the age and maturity of the child. In all introductions the aim should be to familiarise the child and carers, help them decide whether they are sufficiently compatible to live together for the intended period, help the carer and social worker decide whether the carer can meet the child's needs and reduce the child's anxiety at separating from his or her home or current placement. Depending on the child's age and understanding, the child should be encouraged to express his or her views about the appropriateness of the placement and these should be taken into account.

104. The introduction of a sibling group to carers, particularly if the siblings cover a wide age span, requires particular care. It may not be appropriate for each sibling to have the same introductory plan, although the feelings this may evoke, such as jealousy, need to be taken into account.

105. Wherever possible, the parents and/or the current carers should be included in the introductions. It will reassure the child if a parent or carer visits the home first and/or is present on the first visit, particularly if the child can see a co-operative relationship being established with the new carer.

### **Arrangements between local authorities and voluntary organisations**

106. The Regulations set out the circumstances in which a local authority may make arrangements with a voluntary organisation for a child, for whom the local authority is responsible, to be placed by the organisation. Under such arrangements a voluntary organisation may undertake all the duties in respect of the placement on behalf of the local authority except those relating to the drawing up and retention of case records. The local authority should be satisfied as to the capacity of the organisation to discharge these duties and that such an arrangement is the most suitable way of discharging these duties. The local authority and the voluntary organisation should enter into a written agreement about the arrangements, which must include provision for consultation and for exchange of information and reports. The local authority continue to carry primary responsibility for the child's care and welfare and for decisions affecting the child's welfare.

*Regulation 16*

107. Where a voluntary organisation recruits and approves foster carers who live within more than one local authority area it will be possible for one local authority to act on behalf of a group of local authorities. That local authority could, for instance, with the agreement of the other authorities, enter into a written agreement concerning the establishment, and remit, of a fostering panel by the voluntary agency, its arrangements for review and termination of approvals and the placement criteria which it would include in foster care agreements. The individual local authority placing a child, would, however, remain responsible for the foster placement agreement, for notification of the placement, and for any other matters directly affecting the child.

*Regulation 17* 108. The local authority responsible for the child must visit the child in a voluntary organisation placement where the voluntary organisation makes representations that there are circumstances which require a visit. This visit should be made within fourteen days of the representations being made. They must also visit if they are informed from any source that the welfare of the child may not be safeguarded or promoted. This visit should be made as soon as reasonably practicable, but in any event within seven days of being informed.

**Placements through private fostering agencies**

*Section 93* 109. There is no provision for a local authority to arrange for a placement to be made by a private or “independent” fostering agency. Such agencies have not so far been a part of fostering provision in Scotland but they exist in England and Wales. Some of them, which are established as non-profit making agencies, will meet the definition in the Act of a voluntary agency and will, therefore, be covered by the Regulations. Fostering agencies which are profit making on the other hand cannot approve, review or terminate the approval of foster carers. Only a local authority, or voluntary agency acting on their behalf, can do this under the Regulations.

**Inter-agency arrangements between local authorities**

110. Where a local authority arranges for another local authority in Scotland to supervise a placement on their behalf, because the child is placed within the area of the other local authority, there should be an agreement made covering exchange of information, reports, consultation and decision-making. The supervising authority should treat the supervision and support of the placement with the same amount of priority as they would a child they themselves have placed.

111. Particular care is needed where a child is placed outside the area of the local authority. This applies whether arrangements are made with another local authority or with a voluntary organisation, or whether the authority decide themselves to undertake the supervisory duties. Placements at a distance should only be made on the understanding that supervision and support can be provided to the level required by the placement and the child’s welfare (including preparation for independent living and aftercare).

112. Where a child is placed with foster carers outside Scotland, the local authority must ensure that, so far as is reasonably practicable, the Fostering Regulations are followed.

*Regulation 7(3)* 113. The Regulations do not prohibit foster carers from being approved by more than one local authority although this is likely to be rare. It is not necessary for the second local authority to undertake a re-assessment of the foster carers if they intend to approve them for the same categories of children for whom they are already approved. This is known as derivative approval. Approval by more than one local authority may cause conflict between local authorities and disadvantages for the children placed unless careful negotiation and co-operation takes place. The alternative of approval by only one local authority and placements being provided to the other authorities through a service agreement might therefore be preferable in practice.

114. Where a local authority wishes to approve a foster carer on a different basis to that already made by another local authority, the new authority cannot give

derivative approval and must undertake the full approval process in respect of that foster carer. In such circumstances it is important that the second authority has regard to the approval already given by the first authority, and it would be good practice to consider

- the effect further approval will have on any current approval by another local authority
- the effect further approval will have on any child already placed with that person
- whether such further approval might over-burden the foster carer.

In considering these matters it would be good practice for the local authority to liaise closely with any other authority currently approving that person. If a decision is reached by a second authority to approve the foster carer, they must notify the current approving authority of their decision in writing. Following approval, the local authorities should so far as possible agree procedures for consulting and notifying each other on proposed placements, the carrying out of reviews and for any important events which occur within placements. Following a review, each authority is under an obligation to send a copy of any notice given in writing to the foster carer and to any other approving authority.

115. Where the approval of a foster carer is a derivative approval, and the first authority revises or terminates the approval, they must similarly alert the second authority who are also bound by this decision. The second authority must notify the foster carer of the revision or termination of their approval. The date of the revision or termination should be as near as possible to the date specified by the first authority.

### **Arrangements to place children as a result of action by a children's hearing**

116. Where a local authority recommends to a children's hearing that a child should be placed with a person who is not a relevant person (i.e. the person does not have parental responsibilities for the child and is not the person with whom he or she normally lives) that person must be either an approved foster carer or a relative or family friend of the child. In the latter situation, the same checks, visits, and agreements as are made for an immediate placement must be made, but the placement will last as long as the children's hearing determine rather than for a maximum of six weeks.

*Regulation 15*

117. Care will need to be taken that confusion does not arise between situations where relatives or friends need to be approved as foster carers because the child is fostered with them while being provided with accommodation under section 25 or because he or she is subject to a parental responsibilities order, and where relatives or friends have been found to be suitable to care for a child who is subject to a supervision requirement but who are not approved foster carers. This distinction is likely to be clarified by describing the latter group of carers by a term other than foster carers, for example link or family carers.

## **Residential Care**

### **Purpose**

- Section 17(6)* 1. In discharging their duties to children they are looking after local authorities may place them in residential homes of various kinds. The provision and operation of residential homes is subject to the Residential Establishments - Child Care (Scotland) Regulations 1996. This guidance complements the general guidance on children who are looked after by local authorities in chapter 1 of this Volume.
2. A residential establishment can provide certain children with advantages in group living; it offers a wider choice of experience, for example in selecting relationships with peers and staff; it can provide a stable setting for programmes of care tailored to meet individual needs including support for the family, education and health. It is an essential resource and part of the overall network of services for children, which should feature in children's service plans.
3. Whether it is appropriate to place a child in a residential home, rather than other types of support or provision, depends on the individual circumstances of the child. It may be suitable in emergency situations and necessary on a longer-term basis where a family placement is ruled out for any reason. It has particular advantages for grouping specialist services on the same site. It can provide a suitable setting for looking after brothers and sisters together.
4. Most children can however be looked after best in a family placement. Children under twelve years of age particularly need the closer comfort and care that a family can offer. Only exceptionally should a child under twelve be placed in a residential establishment, after an assessment of his or her needs indicates that such a placement is appropriate.

### **Range of Residential Establishments**

- Regulation 3* 5. The Regulations apply to any establishment which provides residential accommodation for children and is controlled or managed by the local authority or is one in respect of which a person is required to be registered under section 61 of the Social Work (Scotland) Act 1968 or is a school which is registered voluntarily under section 61A of that Act.
6. Some responsibilities of the local authority in relation to residential placements are now regulated by the Arrangements to Look After Children (Scotland) Regulations 1996.

### **Information to the Person in Charge**

- Regulation 17* 7. Where a local authority places a child who is looked after by them in a residential establishment it should provide the person in charge with written information about

the child's background before he or she is placed and if this is not practicable, because of a change in circumstances, by the time of the first visit. Background information about the child should include his or her health, psychological, social, emotional and physical development, educational requirements and progress. In addition such information should cover any assessment undertaken of emotional or behavioural difficulties or special needs. Where the establishment is providing education and the child's needs are recorded under section 60(2) of the Education (Scotland) Act 1980 a copy of the Record of Needs should also be sent to the person in charge. The child's views about the placement should also be reported, suitably reflecting his or her age and maturity. Due regard should be given to the child's religious persuasion, racial origins and cultural and linguistic background. Any arrangements or conditions about contact with family and friends should be identified.

8. The responsible authority should also agree with the person in charge a programme for each child which promotes the child's welfare and at the same time provides for development and control. The programme should include arrangements for admission; contact with the family; provision for adequate and efficient education; and for medical and dental treatment. It should identify the roles and responsibilities of the residential key worker, social worker and any other persons responsible for meeting the child's needs, including any special needs.

### **Statement of Functions and Objectives**

9. The managers of each residential establishment in consultation with the person in charge are required to prepare a statement of functions and objectives for the establishment, within six months of the Regulations coming into force. They should ensure that the person in charge reports to them in writing at intervals of not more than twelve months on the implementation of the statement and progress in relation to the development plan for the establishment. They should also ensure that each establishment they provide is visited on their behalf at intervals of not more than six months and that this visit should result in a comprehensive report on the implementation of the statement of functions and objectives for each establishment. Managers may, in consultation with the person in charge, make appropriate amendments to the statement. Copies of the statement (or amended versions) should be made available to children and parents. The managers should also make the statement available, on request, to any local authority or children's hearing considering placing a child in such an establishment.

*Regulation 5*

10. The statement should provide the establishment with an overall sense of direction. It should describe what the home sets out to do for children; the types of service which it seeks to provide directly or in association with other agencies; the outcomes it seeks to achieve and the timescales. The statement might be organised around the eight principles set out in the report "Another Kind of Home" (HMSO, 1992)<sup>1</sup>

- individuality and development
- rights
- good basic care
- education

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<sup>1</sup> "Another Kind of Home" (HMSO, 1992).

- health
- partnerships with parents
- child centred collaboration
- a feeling of safety.

Matters which should be included in the statement are detailed in the annex to this chapter.

11. The statement of functions and objectives should be reviewed regularly. A development plan<sup>2</sup> can help to ensure that necessary action is taken to improve performance. It lists key priorities and identifies steps which can be taken to improve performance. The plan should dovetail with the statement and progress should be monitored when the statement is reviewed or more frequently if required. The plan should take the form of a rolling programme with new priorities, which reflect changing circumstances, replacing old priorities as the latter are achieved.

### **Number of Children who may be Accommodated**

*Regulation 6* 12. The managers or the registering authority, in the case of establishments provided by the independent sector, should determine the total number of children who may normally reside in the establishment. In doing so consideration must be given to a number of factors including the characteristics of the children, for instance any special needs; stated functions and objectives; the resources available, particularly the size and characteristics of the building and staffing complement; any additional staff responsibilities, such as outreach work; and the need to meet other requirements, notably health and safety regulations. The need to accommodate emergency admissions, usually on a short-term basis, should also be taken into account. Where the establishment is an independent school, the managers/proprietors should ensure that the accommodation of such emergency admissions does not cause the school to exceed the maximum number of pupils/residents approved by the Registrar of Independent Schools. If that happens, the managers/proprietors of the school must seek approval from the Registrar as soon as possible for a temporary increase in the optimum roll.

### **Appointment of Person in Charge**

*Regulation 7* 13. The local authority or managers should appoint a person in charge, identify the duties delegated to this post and specify the persons to deputise when the person in charge is absent. In smaller establishments responsibility for deputising may be vested in a member of the care staff, who is suitably qualified and experienced, rather than a dedicated post.

*Regulation 8* 14. The local authority or managers responsible for a residential establishment must have procedures in place for the appointment and regular vetting of all staff, including sessional, temporary and relief staff, who have substantial access to children. Thorough checks on suitability must also be completed prior to appointment. This should include checks with the Scottish Criminal Records Office (SCRO) on the

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<sup>2</sup> "A Secure Remedy" (HMSO, 1996).

possible criminal background of those about to be appointed. Other sources of information<sup>3</sup> should also be checked, where appropriate.

15. Local authorities and managers should have personnel procedures<sup>4</sup> to enable them to discharge responsibilities as employers in relation to the selection, development and management of staff. In recruiting and selecting staff local authorities and other organisations should advertise posts externally, take up references, obtain comprehensive employment histories from previous and current employers and complete preliminary and final interviews. The appointment panel should include a member who is independent of the establishment. Following appointment the performance of staff should be monitored closely during the period of probation. The probationary period should be of sufficient time for probationers to demonstrate that they have met the required standards. All staff should receive regular supervision and annual documented appraisal of performance.

16. Staff should also have appropriate training for the work in which they are engaged. Local authorities and other organisations should aim to achieve a position in which 90% of all senior residential child care staff with management or supervisory responsibilities hold the Diploma in Social Work or its equivalent and 60% of care staff are assessed as competent at HNC/SVQ level 3. 30% of care staff should also hold the Diploma in Social Work or its equivalent and 60% should achieve this target in the next decade. The target for senior staff should be achieved by the year 2000 but the HNC/SVQ target for care staff will take longer. Staff should also have regular access to in-service training and the post-qualifying framework, particularly in relation to management and advanced practice.

### **Quality of Care**

17. The welfare of children placed and kept in a residential establishment should be safeguarded and promoted and provision for the care, development and control of the children should aim to be conducive to the best interests of each child. Following the eight principles which are listed in paragraph 10.

*Regulation 4*

### **Individuality and development**

18. Children in residential care have a right to be treated as individuals who have their own unique relationships, experiences, strengths, needs and futures, irrespective of the needs of other residents. They should be prepared for adulthood and supported until they are fully independent.

19. The child's social worker is responsible for throughcare. This commences prior to admission, includes the period when the child is looked after and continues when the child leaves residential care. Placements in residential establishments should normally be planned following an assessment of the child's needs. The social worker, together with the residential key worker responsible for the child, is responsible for co-ordinating the assessment which should consider all the child's needs, including

3 All education authorities in Scotland hold copies of lists:

IR - people struck off or refused admission to the register of the General Teaching Council for Scotland; and

99 - people barred from employment working with children in schools in England, Wales and Northern Ireland.

4 See the Warner report "Choosing with Care" (HMSO, 1992).

education and health and any special needs relating to disability. Planning for when the child is no longer looked after should commence before the child is placed in a residential establishment. This is usually assisted by helping the child to maintain links with his or her local community.

20. To ensure that support and developmental opportunities are designed to meet individual needs the child and his or her parents, in most cases, should be actively involved in the related processes of assessment, planning, programmes and reviews. Members of the child's extended family who are likely to play a significant part in his or her care should also be involved in planning.

21. Promoting individuality and development begins with the procedure for admission to the residential establishment. A sense of identity and belonging may also be fostered by the privacy accorded by a single bedroom and personal possessions. Staff, particularly key workers, need to tailor programmes to individual needs and provide, for example, individual counselling and group support. Some children may be affected by disability, cultural or language differences which need to be addressed sensitively in individual programmes. With others the emphasis may be on preparation for independent living.

*Regulation 14* 22. The managers in consultation with the person in charge should, so far as practicable and having regard to the child's wishes and feelings, arrange that every child accommodated in the establishment is able to attend such religious services and to receive such religious instruction as may be appropriate to the child's religious persuasion.

### **Rights**

23. Children and their parents should be given a clear statement of their rights and responsibilities. They should have a confidential means of making complaints. They should be involved in decisions affecting them and the running of the home. Their rights should be consistently respected.

24. The home or responsible organisation should produce a statement of the rights and responsibilities of children residing in their establishments and convey to children the practical arrangements for them to exercise their rights and responsibilities - notably rights to be involved in decisions about their own lives and the running of the home, their access to a general practitioner, who may, or may not, be the visiting GP, other health professionals and independent advocates. The home or responsible organisation should identify the rules of the home and the responsibilities of children, for instance in maintaining good behaviour. Staff should foster a culture in which children are encouraged to express their views.

25. Each establishment must have a formal complaints procedure which is part of the responsible agency's procedures. The procedure should be easily understood and readily accessible to the children and staff. This procedure should include provision for children to gain access, by such means as private use of a telephone, to a person independent of the establishment, for instance a complaints officer. Complaints should be followed up promptly and thoroughly. The child should be informed, usually in writing, of the outcome. A record should be maintained of the complaint, follow-up and outcome. Staff should receive training to familiarise them with procedures. It is also helpful to review the number and characteristics of

complaints on an annual basis to identify any wider implications for practice and management in the establishment.

### **Good basic care**

26. Children residing in residential establishments with or without education, should be given a high standard of personal care. They should be offered new, varied and positive experiences of life, and should be included in the wider community.

27. Buildings should be suited to their purpose. They should be accessible to disabled children and visitors. Smaller units in smaller buildings are more manageable and generally more effective in meeting the needs of children. Location is also important. Key features include a sense of belonging to a community and access to community resources such as schools, health, leisure and transport services. Children's friends should be welcome. The building and fabric should not appear or become neglected. Arrangements for maintenance, repair and refurbishment, including a budget for minor repairs, need to be in place.

28. Food and clothing are important aspects of basic care. Children should not only be given nutritious food but can also be happier about food when they are consulted about the menu and have access to snacks. Children should be encouraged to eat healthily. Advice on providing simple, tasty but healthy meals can be obtained from community dieticians. Other positive experiences for children include their choice of clothes and hair style, which are important expressions of individuality.

29. Children should have some choice of leisure and recreational activities both within the home and the community. When children have special interests, such as music, they should be helped by staff to follow them up. Sufficient resources, including money, equipment and transport arrangements, should be available to the home for children to pursue a reasonable range of interests.

### **Education**

30. Children should be actively encouraged in all aspects of their education, vocational training or employment and offered career guidance. Their individual educational needs should be identified and met.

31. All children have a right to schooling appropriate to their needs and should be offered opportunities for continuing further and higher education beyond statutory school leaving age. Educational progress at whatever level is a powerful means towards achieving a rich and satisfactory adult life. Children cannot develop a sense of self-worth if they have experienced failure and disaffection at school.

32. The managers of the establishment should ensure, in consultation with the appropriate education authority, that each child of school age (see section 31 of the Education (Scotland) Act 1980) residing in the establishment and not receiving education at a school or other place outwith the establishment receives adequate and efficient education which is appropriate to his or her age, ability and aptitude. In making provision for education the managers should take into account the number of children looked after in the establishment for whom education may have to be provided; the age, ability and aptitude of each child; the period for which the child

*Regulation 11*

is expected to be looked after in the establishment; arrangements for the provision of education in the establishment including teaching accommodation and facilities and the services of appropriately qualified teaching staff. Chapter 1 of Volume 2 of this guidance on children who are looked after by a local authority sets out the general responsibilities for the provision of education for such children. Chapter 6 on secure care provides guidance on education relevant to all residential schools. Further information is available in “Effective Provision for Special Educational Needs” a report by HM Inspectors of Schools (Scottish Office Education Department 1994).

### **Health**

33. Children’s health needs should be identified and met, they should be encouraged to avoid health risks and to develop a healthy life-style.

*Regulation 15* 34. The managers in consultation with the person in charge should ensure that arrangements are made which are conducive to the good health of the children accommodated. These include the promotion of healthy living and the maintenance of satisfactory hygiene.

35. The arrangements for the provision of health and medical care are set out in the guidance on children looked after by local authorities. Where practicable, children placed in residential establishments should continue to see the same health care team, thereby ensuring continuity. When a child wishes to see his or her own GP, or the local GP, he or she should normally be able to ‘phone the doctor on a confidential basis. Children who require regular medication, for instance asthma inhalers, should be encouraged to manage their own medication provided that this arrangement is consistent with their own safety and the safety of other children residing in the establishment.

36. Each establishment should have a clear policy on children smoking designed to discourage smoking and to provide strong encouragement to give up smoking. Staff should not smoke on duty or in front of children. The aim should be to achieve a smoke-free environment for both children and staff.

### **Partnerships with parents**

37. Children in residential homes and schools should be looked after in ways which maximise the opportunities for parents’ continued involvement and for services to be provided in the context of a partnership with parents, wherever this is in the interests of the child.

38. In order to promote shared responsibility, establishments should provide for continued involvement by parents and other family members when this is in the interests of the child. For instance a parent who is suspected of abusing his or her child may not be able to see the child privately, albeit on a temporary basis. Parents should be encouraged to visit and see their child privately. They have an active part to play in planning and reviews which are described in separate guidance on children who are looked after by a local authority. The home or responsible organisation should encourage active participation by producing a statement of parental rights and responsibilities and how these can be exercised. Staff should also receive training to help them work constructively with parents.

**Child centred collaboration**

39. The adults providing for children's care in residential establishments need to work together to focus on promoting each individual child's welfare, including the development of good health and the provision of education. Residential and non-residential social work staff and staff from education, health, housing and other agencies will need to be involved in order that proper attention is given to children's full range of needs. Field social workers and residential staff have to agree their respective responsibilities for direct face-to-face work with each child in a residential establishment. This will include the frequency and nature of visits by the field social worker to the child, the issues to be addressed in direct work, its purpose and the extent of involvement in day to day decision making.

40. The quality of care and decision making in relation to children looked after is determined not only by the individual actions of responsible agencies, such as education and social work, but also the extent and manner of their collaboration. For instance care staff can reinforce educational gains by encouraging children to participate in extra curricular activities at school and to complete homework. Effective collaboration between care staff and social workers can also be enhanced by clarifying respective roles and responsibilities.

**A feeling of safety**

41. Children should feel safe and secure in any residential home or school. The creation of a safe and secure environment depends not only on having sufficient male and female staff and management but also on routines, for instance effective hand-over arrangements to promote continuity, and clear boundaries between acceptable and unacceptable behaviour for both children and staff. A child should feel confident that his or her views will be heard. Concerns about the safety of children, for instance possible abuse, should be addressed promptly and in a way which is sensitive to the child's background and stage of development. To ensure effective arrangements each establishment should have child protection procedures agreed with the responsible agency, which are made known to children and staff. Staff should receive training to familiarise them with procedures.

**Precautions against Fire and Accident**

42. The managers must safeguard the physical well-being and safety of children being looked after in the establishment. Arrangements should take account of the particular needs of children with disabilities.

43. In consulting the fire authority for the area in which the establishment is located the managers must ensure that adequate precautions are taken against fire and that these are reviewed at suitable intervals taking into account any recommendations made by the fire authority. The managers must also ensure that staff and children looked after become familiar, by means of drills and practices, with precautions in the event of fire. A record of drills and practices must be maintained in order to monitor the state of readiness.<sup>5</sup>

*Regulation 9*

44. It is the manager's responsibility to ensure that adequate precautions are taken against other forms of accident in the establishment. Staff and, as far as practicable,

*Regulation 9*

<sup>5</sup> Also see Social Work Services Group Circular 102/83.

children should be familiar with such precautions. Safety awareness should also be an integral part of life skills training for children being prepared for independent living. It is good practice<sup>6</sup> to maintain a record of accidents which involve children looked after or staff. When a child is involved in an accident the parents and social worker should also be informed.

### **Notification of the Death of a Child Looked After**

45. In the event of the death of a child who is looked after, arrangements for notification are set out in the separate guidance on children who are looked after by a local authority. The establishment should provide appropriate support for other children and staff, including opportunities to share their feelings, participate in the rituals surrounding death and talk through the implications of loss for themselves.

### **Care and Control**

46. All group living situations have expectations about how people will behave and relate to each other. Residential settings are no exception. Children should be helped to understand what the expectations of their behaviour will be and what will happen if they do not live up to them. It is the responsibility of staff and managers of residential establishments to ensure that this happens.

47. Living and working together is not easy. Tense moments will occur and anger will sometimes erupt. When difficult situations are handled well children can learn constructive ways of coping with stress and anger.

48. Systems of sanctions and control cannot be divorced from systems of management and care practice and planning in the home. It is vital that staff have a sound understanding of the principles and procedures employed for the care and control of children so that they can respond to a child appropriately and with confidence. The child's age and stage of development should always be taken into account in exercising sanctions and control. Staff should not compromise respect for the child, which is central to his or her welfare. It is the behaviour which is unacceptable, not the child.

*Regulation 10* 49. The managers of a residential establishment must determine arrangements for sanctions, relevant to the control of children looked after and in accordance with the stated functions and objectives. Each establishment should have a clear written policy on the management of challenging behaviour, including the use of restraint, and staff should have appropriate training.<sup>7</sup> Corporal punishment is not acceptable in residential establishments.

### **Personal Records**

*Regulation 13* 50. The managers in consultation with the person in charge should ensure that all necessary records, including where necessary health particulars, are maintained in respect of each child accommodated in the establishment. A child's personal

6 Further information about good practice is set out in "Health and Safety in Residential Care Homes" published by the Health and Safety Executive in 1993.

7 A UK training package "Taking Care, Taking Control" was made available in Scotland by Social Work Services Inspectorate in 1996.

record provides a common understanding of the plan for him or her, arrangements made, agreements and decisions which have been reached and the reasons for them. It also enables the implementation of planning decisions to be kept under review.

51. The record should include all the information about family history, involvement with the authority and progress which is set out in guidance on children who are looked after by a local authority. The record maintained by the residential establishment should include

- date of the placement
- the supervision requirement or provision by reference to which the placement was made
- the views of the child and his or her parents about the placement
- reasons for the placement
- persons notified about the placement
- reports of visits by the child's social worker
- date of termination of the placement
- reasons for ending the placement
- persons notified about the termination of the placement
- arrangements for providing the child with continuing support.

52. Personal records should be comprehensive and up-to-date. They should also include cross-references to other records where more detailed information is held. Records should be checked regularly by the person in charge of the establishment. In addition they should be accessible to the responsible social worker. Arrangements for access to personal records by children under sixteen have been modified by the Age of Legal Capacity (Scotland) Act 1991 as explained in the guidance on children looked after by a local authority.

### **Log Book**

53. The managers in consultation with the person in charge of the establishment should ensure that a log book is maintained of day-to-day events, particularly concerns about individual children. References to individual children entered in this log will be detailed in personal records. In addition other entries such as the use of measures of control, complaints or accidents will be entered in separate logs dedicated to those respective purposes. In order to avoid unnecessary duplication and to facilitate rapid access it is helpful if entries in different logs about the same event are cross-referenced.

*Regulation 12*

### **Monitoring Registered Establishments**

54. When an establishment<sup>8</sup> has been registered under section 62(3) of the Social Work (Scotland) Act 1968 the local authority must satisfy itself that the establishment continues to conform with the requirements of registration. The regulations require that the registering authority visits at least once a year in order to satisfy themselves

*Regulation 16*

<sup>8</sup> Any residential establishment the sole or main purpose of which is to accommodate persons for the purposes of the Act, whether for reward or not, not being premises controlled or managed by a Government department or by a local authority, or required to be registered, with the Government department or local authority under any other enactment.

of this. Visits should be more frequent if this is necessary to ensure the safety and welfare of the children. Local authority establishments are subject to inspection by local authority arms-length inspection units.

55. Although the Regulations prescribe a minimum of one visit per year it is up to local authorities to determine the number of inspection visits per establishment (whether registered or managed by a local authority). A minimum of two visits per year would be the normal expectation and one of these should be unannounced.<sup>9</sup>

56. The principles identified in paragraphs 17-41 provide the framework for the registering authority to evaluate the quality of care in homes and establishments.

### **External Management Arrangements**

57. When an establishment is managed by a local authority or agency an external manager should be designated. This is a person who holds overall responsibility for the services provided by the establishment. In local authorities this will normally be a member of staff with responsibility for a number of establishments, for services in a geographical area or for a particular set of functions. In a large independent organisation the external manager may have a similar set of responsibilities. In a small organisation external management may be the responsibility of the Board of Managers or the Board of Governors. The primary responsibility, in conjunction with the person in charge, is to ensure that acceptable standards are maintained. In promoting high standards the external manager should not only be familiar with other monitoring arrangements, for instance, local inspection reports, but should also visit the establishment to talk with and listen to children, parents and staff. The external manager's main tasks are

- monitoring the experience of children
- ensuring that practice complies with legislation, regulations and national and local guidance
- supervising and supporting the person in charge
- ensuring that staff are familiar with their responsibilities and equipped, through training, to perform them
- ensuring that resources, including staffing, the building, furnishing and fittings are sufficient and suited to purpose
- identifying the need for and instigating any necessary changes
- reporting on progress to the managing authority or agency.

### **Recreational Trips**

58. In common with their contemporaries, children looked after in residential establishments should have access to a range of leisure and recreational experiences including excursions, activity based trips and holidays. Careful consideration should be given to the objective of any trip, which should be fully consistent with each child's care plan. Parental consent should be obtained, particularly for outdoor recreational activities which are potentially hazardous. Well planned and controlled trips will include arrangements to ensure the safety and supervision of children

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<sup>9</sup> Scottish Office Circulars SWSG9/90 and SWSG7/96

and, also, the interests and security of others. The responsible agency should be aware that the successful promotion of trips often depends on sensitivity to public concerns. It should normally be possible to meet the objective of the trip by visiting a destination in the UK. Holiday trips outwith the UK should not be considered for young offenders.

## **ANNEX**

### **Matters to be Included in a Statement of Functions and Objectives**

The statement should include details of arrangements for

- providing information about life in the establishment to children and parents prior to admission or as soon as possible following admission
- defining the child's rights and responsibilities
- identifying appropriate relationships between children and staff
- taking account of the needs, including any special needs, and wishes of each child
- safeguarding the physical care of children
- education and healthcare, including the provision of a healthy lifestyle
- assisting each child to develop their potential
- involving children and parents in decisions about the child's future
- reviewing and evaluating the support and development of children within the establishment
- ensuring that each child's religious persuasion, racial origins, cultural and linguistic background are given proper regard
- sanctions relating to the control of children
- protecting children
- dealing with unauthorised absences
- involving children in decisions about daily living
- creating opportunities for children to use local community facilities
- dealing with complaints from children and parents
- record keeping
- visits by relatives and friends
- recruiting, supervising and training staff
- deploying and using staff to fulfil the responsibilities of the establishment effectively and efficiently
- fire precautions and alarm tests
- meeting health and safety requirements
- throughcare, including aftercare
- consulting children and staff in preparing and reviewing the statement of functions and objectives
- identifying the functions and role of external managers.

## **Registration and Inspection of Certain Residential Schools**

1. The Act requires persons responsible for certain independent and grant aided schools to register with the local authority in which the school is situated. The schools concerned are residential child care establishments the whole or a substantial part of whose functions are to provide personal care or support for the purpose of the Act or the Social Work (Scotland) Act 1968 (the 1968 Act). *Section 34 (amending Section 61 Social Work (Scotland) Act 1968)*
2. Where providing such personal care or support is not a whole or a substantial part of their functions, residential schools may decide to register on a voluntary basis. *Section 34(3) (Substituting Section 61A 1968 Act)*
3. This requirement to register will bring certain residential schools within the scope of the regulations made by the Secretary of State in respect of residential and other establishments under Section 60 of the 1968 Act<sup>1</sup> and general guidance on the registration of residential establishments.<sup>2</sup> Guidance on Residential Care applies to care arrangements for all registered residential schools.
4. The requirement does not apply to any school controlled or managed by a Government department or by a local authority or one that is required to be registered with a Government department or local authority under any other enactment. Being registrable by the Registrar of Independent Schools does not exclude an establishment from a requirement to register under section 61. *Section 61 1968 Act*
5. Personal care includes the provision of appropriate help to children with physical and social needs extending to the oversight of welfare and active help with dressing, eating, washing, bathing and enabling children with special needs to cope in a living situation. Support includes counselling or other help provided as part of a planned programme of care and help with the management of emotional and behavioural problems and with the development of social skills. The support in question needs to be part of a planned programme of care, identified to meet the person's particular needs.
6. All residential schools provide a degree of personal care and support. For schools to come within the scope of the registration provisions, local authorities will have to consider firstly whether the personal care or support provided is required for the purposes of the Act or the 1968 Act and, secondly, whether that degree of care or support is a whole or substantial part of the school's functions. It is not envisaged that schools that provide boarding accommodation for educational purposes should

1 Residential Establishments - Child Care (Scotland) Regulations 1996, the Registered Establishments (Scotland) Act 1987, the Registered Establishments (Application Form) (Scotland) Order 1988, the Registered Establishments (Appeal Tribunal) (Scotland) Rules 1983 as amended in 1988.

2 Circular SWSG16/88 the Registered Establishments (Scotland) Act 1987 and Associated Subordinate Legislation :  
Circular SWSG7/96 - Local Inspection of Residential and Day Care Services.

be registered under the Act. Educational provision in registered establishments will continue to be subject to inspection by H.M. Inspectorate of Schools under the Education (Scotland) Act 1980.

7. Where the local authority considers that a school is required to register and the person responsible for the school disagrees then the local authority should discuss this with the responsible person before reaching a conclusion about whether registration is required.

### **Registration Requirements and Conditions**

8. A registration application should be made by the person responsible for the carrying on of the school to the local authority in whose area the school is situated. The Registered Establishments (Application Form) (Scotland) Order 1988 requires that the following information is provided

- details of the manager or intended manager
- whether the application is for statutory or voluntary registration
- whether the establishment provides, or is intending to provide, nursing care and thus requires to be registered under the Nursing Homes Registration (Scotland) Act 1938
- the applicant's age, professional or technical qualifications, experience, other similar establishments in which he has a business interest; any previous occasions on which his application to run a residential or nursing home or residential school has been refused or registration cancelled. The applicant's details will be those of the principal representative of the school such as the Chair of the board of governors
- a statement of the functions and objectives of the establishment
- the establishment's construction and situation, the services and equipment to be provided, other premises used or to be used in conjunction with the establishment; and whether planning, or building control or other approval has been obtained. Details of accommodation for residents and staff
- staff and their duties and the hours for which each member of staff is employed
- details of the distinction between accommodation for residents and staff, and for resident children and non-resident children
- the numbers and categories of children accommodated and their ages.

#### *Section 62(4) 1968 Act*

9. Where the person registering the establishment proposes to employ a manager to run the establishment on a day-to-day basis he or she should include that person's name in the application and inform the local authority within twenty-eight days of the departure of that person or the employment of a new person. If the local authority considers this person unfit they may cancel the registration. The person registering the establishment must give the local authority twenty-eight days notice of the intention to cease carrying on the establishment.

10. Once the local authority are satisfied that the requirements are met they will issue a certificate of registration which shall relate to the whole of the establishment, except for those parts which are used exclusively for educational purposes.

11. The certificate of registration is required to contain the following information *Section 62(6A)*  
*1968 Act*
- the name of the person registered in respect of the establishment
  - the name of any manager appointed
  - the address of the premises at which the establishment is to be carried on
  - the maximum number of children who may be accommodated
  - the categories of children who may be admitted to the establishment and their ages.

Any material changes occurring in any of the information requires the registered person to notify the local authority and request a variation in registration. If satisfied the local authority should issue a new certificate. *Section 62(6A)*  
*1968 Act*

12. Where the person registered in respect of an establishment dies his or her executor, widow or widower or other members of his or her family can carry on the establishment for up to four weeks without being registered. The local authority can agree this for a longer period. If such a person is considered unfit by the local authority they may exercise their powers of cancellation. *Section 62(8)*  
*1968 Act*

13. Where for any reason the registered person ceases to be registered the registering authority may allow another person to carry on the establishment for up to 60 days and subject to any conditions they consider necessary.

14. The local authority is required to make conditions for registration stipulating the maximum number of children to be accommodated in the school at any one time and the categories of such children. The power to make and vary conditions in regard to the categories of children means that local authorities may prevent the mixing of specific categories (whether in terms of age, dependence or other characteristics) in a new school or require an end to undesirable mixing in an existing school. *Section 62(5)*  
*1968 Act*

15. Authorities may impose any other reasonable condition they consider necessary in relation to the proper operation and care arrangements of the establishment, for example, that arrangements are in place for advising children of procedures for making complaints to the management of the school, the registering authority or their placing authority.

16. Requests for conditions to be varied or new conditions imposed may come from either the local authority or the registered person. The local authority may decide variations are inappropriate. These are subject to the registered person's right of appeal to a tribunal. The registered person is required to comply with reasonable conditions. *Section 62(5A) of the*  
*1968 Act*

### **Refusal or Cancellation of Registration**

17. The local authority may refuse to register the applicant if
- he or she or any person employed by him or her or proposed to be employed by him or her in the management of an establishment (or any part of it) is not a fit person
  - if the establishment or premises are not fit for reasons such as situation, construction, state of repair, accommodation, staffing or equipment

- the way that it is proposed to conduct the establishment is such as not to provide services or facilities reasonably required by children using such an establishment.

18. The registering authority will need to be satisfied of the fitness of the applicants and the fitness of those employed by them in the school and to be satisfied that the system of staff selection is properly organised and conducted. The selection procedures should include Scottish Criminal Records Office checks (SCRO) on all individuals employed in view of their contact with children.<sup>3</sup> All references should be taken up. Full employment histories should be taken by schools and gaps and omissions investigated. The use and selection of temporary staff to whom these procedures apply should be looked at particularly closely.

*Section 62(4c) of the  
1968 Act*

19. The local authority may at any time cancel the registration of a person in respect of an establishment where

- he or she has failed to notify the authority of a change of manager
- he or she has been convicted of an offence relating to the regulations relating to registration
- conditions set by the local authority have not been complied with.

Opportunities should be given for the proprietors to rectify the situation unless registering authorities believe to do so would place children's welfare at risk. A planned programme of change may need to be worked out between the school and the registering authority.

### **Appeals against Refusal of Registration and Conditions**

*Section 64(4) of the  
1968 Act*

20. Where an application for registration has been refused an appeal to a tribunal (established under Schedule 5 to the 1968 Act) can be made.

21. The appellant and the registration authority will be notified once the tribunal has been constituted. The appellant has fourteen days to send a written statement setting out the ground of his or her appeal to the tribunal and should provide a copy to the registration authority. The registration authority should send to the tribunal within seven days, a written statement setting out the grounds on which the application was refused, or, as the case may be, on which registration has been cancelled. A copy should be sent to the applicant. A tribunal hearing date will be fixed at which parties have a right of audience and may be represented by counsel or solicitor. The hearing's decision will be issued within fourteen days of its conclusion.

22. Appeals to a tribunal may be made by the person registering an establishment against a condition or conditions imposed by the local authority, whether in the course of registering an establishment initially or otherwise. There is likely in practice to be a discussion between the local authority and the person registered or intending to register on this matter and local authorities should inform that person of the reasons for imposing a condition. Where an appeal is made the condition will not take effect until the tribunal has made its decision.

<sup>3</sup> Scottish Office Education Department circular Ref KWJ/2/7 30 November 1992 Protection of Children from Abuse: Arrangements for Checking Possible Criminal Background of Prospective Employees. Warner Report of the Committee of Inquiry into the Selection Development and Management of Staff in Children's Homes HMSO 1992 also provides useful information.

### **Voluntary Registration**

23. Independent and grant aided schools which are not required to register with the local authority may apply to do so if they wish. Local authorities should encourage such registrations. Voluntary registration can develop closer working relationships between the local authority and the schools in their area and ease access to advice and support for the schools. Schools should consider voluntary registration as demonstrating that the care being provided is of an acceptable standard and will aid local authorities, parents and others in choosing where to place children.

### **Standards for Registration and Inspection**

24. Each local authority has to formulate standards for registration. Schools in their area should be consulted about proposed standards which should focus on children's needs and be realistic, attainable and challenging. There should be flexibility about how standards which have been developed for residential homes are applied to schools. The quality of life experienced by children in the school is the most important consideration. The quality of care provided in schools should not be of a lower standard although the practical application may differ between schools and other residential establishments. Access to standards for registration should be available to current or prospective proprietors or managers considering setting up a school as well as for children and their parents. Where authorities use schools in other authorities' areas they should receive information from registering authorities about their standards, and their comments should be taken into account when standards are being reviewed.

25. The standards should cover the fitness of persons responsible for the establishment, the establishment's fitness for its purpose and the way the establishment is run. In inspecting the achievement of registration standards there should be room for flexibility according to circumstances, for example the quality of life for service users will not be determined solely by the application of criteria such as the size of the establishment or the qualifications of staff. Good schools may be of varying sizes. The fitness of each school and each manager should be assessed in its particular circumstance. Other regulatory or standard setting bodies such as Her Majesty's Inspectors of Schools, Building Control, Planning, Environmental Health and Fire departments should be consulted as appropriate.

### **Residential Establishment Regulations and Guidance**

26. The Residential Establishments - Child Care (Scotland) Regulations 1996 and related guidance apply to all registered child care establishments including independent and grant-aided schools which are registered under the Act.

### **Monitoring Registered Establishments**

27. Under the regulations the registering authority are expected to

- visit registered establishments at least yearly, and more frequently if this is necessary to ensure the safety and welfare of the children
- satisfy themselves that the establishment continues to conform to the requirements for registration and in so doing have regard to the statement of functions and objectives
- notify any placing authority of any concerns about the welfare or safety of children.

28. Although the Regulations prescribe a minimum of one visit per year it is up to local authorities to determine the number of visits per establishment (whether registered or managed by a local authority). A minimum of two visits per year would be the normal expectation and one of these should be unannounced.<sup>4</sup>

29. The local authority has the power to authorise a person to enter any registered establishment in their area or any establishment that they think should be registered and any place they have reasonable cause to believe is being used as an establishment that should be registered. The purpose of the visit is to examine the state and management of the establishment and the condition and treatment of the children in it. An inspection of any register or records relating to the place or relevant persons may also be made.

30. The main purpose of inspection visits is to safeguard the well-being and interests of the children through an evaluation of the quality of life experienced by children using the service.

### **Liaison with HM Inspectors of School (HMI) and Local Authorities**

*Section 35* 31. There is a new duty on education authorities and on the managers of independent, grant-aided and self-governing schools, who provide, or arrange for the provision of, residential accommodation for their pupils (whether the accommodation is inside or outside the school establishment), to safeguard and promote the welfare of the pupils resident there. The duty applies to pupils under 18 years of age. A school inspection may include an inspection of whether education authorities and the managers of other schools are adequately safeguarding and promoting the welfare of such residential pupils. These are described by HMI as Welfare of Residential Pupil Inspections (WRP Inspections).

*Section 66 of the 1980  
Education Act*

32. Local authorities should liaise closely with HMI and inform them of schools they have registered. They should send copies of reports of inspections to the Chief Inspectors of schools in the relevant Divisional HMI offices, who will draw the attention of the Registrar of Independent Schools to any relevant aspects of those reports which may have a bearing on possible action by him on the registration of independent schools. HMI will in turn pass copies of their reports to the local authority. Welfare of Residential Pupil Inspections on such schools will only be carried out as part of the general inspection programme or related to specific complaints. Authorities should inform HMI about planned dates for inspections. HMI will inform the local authorities when they are intending to undertake an inspection on a school which is registered with the local authority under Section 61 of the 1968 Act as well as for educational purposes. There may be occasions where concerns about a school indicate the need for joint inspection.

### **Quality Of Care**

33. The principles underlying good quality care are set out in Volume 2 chapter 4 at paragraphs 17-41 and apply to all residential establishments including schools registered under the Act.

<sup>4</sup> Detailed guidance on inspections is given in Circular SWSG9/90: Community Care: Inspection of Establishments - Organisation and Role of Inspection Units and Circular SWSG7/96: Local Inspection of Residential and Day Care Services.

34. Living in a residential school is not necessarily the same as living in a residential home and practical arrangements for meeting the child's care needs will have to be considered in that context. A school's statement of functions and objectives should set out the type of education and care being provided. Where children remain at the school for fifty-two weeks a year some practical arrangements may differ from schools which only have pupils in term time. In developing their framework of registration standards after consultation with independent and grant aided schools registering authorities will need to take this into consideration. Changes to the school considered necessary by the registering authority may have to be implemented over a period of time and a flexible approach needs to be adopted by both parties. If children are living in schools for the provision of certain forms of education and/or care then they may not require the same forms of care as if it were a substitute home for them. Many residential schools will be much larger than residential homes and from the perspective of the delivery of education that may be preferable.

35. The standard of accommodation should enable children to live a full life in the school community. The nature of the living space and overall environment will help children adjust to living away from home. Personal space is important to young people's social well-being. Individual rooms may not be required in all settings. Residents need to personalise those areas which they can regard as their own, store possessions in their own lockable cupboard or chest of drawers, enjoy opportunities for privacy and have access to staff in private.

36. Children may in a residential school be some distance from their home communities. Social work departments and education departments responsible for placing children should promote regular contact by families with the child and school. Residential schools should encourage family contact where that is appropriate. Opportunities and space for private visiting and facilities for overnight stays for visitors should be provided.

37. Schools will need to have their own complaints system for children. Children need to be aware of the complaints system used by their placing local authority if applicable. Access to a children's rights or advocacy service is helpful to children in residential settings.<sup>5</sup>

38. There may be aspects of care in schools where similar standards to those developed by registering authorities for residential homes are not appropriate. For example, dormitory accommodation, open washing facilities. Registering authorities will need to discuss with school proprietors the level of minimum standards which are acceptable in the context of the quality of life for children attending the school. Time may be needed by some schools to upgrade facilities to minimum standards and negotiations around timescales will be appropriate. There may be occasions where a planned programme of change is a condition of continued registration; and other occasions where immediate changes are required.

39. Schools need to ensure that arrangements are in place for the oversight of children's health and to deal with matters of concern as they arise. Children should be registered with a local general medical and dental practitioner or the school should have an agreed arrangement with them to provide primary medical and dental services. Children who fall ill should be able to be accommodated separately

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5 Circular SWSG5/96 Local Authority Complaints Procedures.

from the rest of the school when necessary with easy and quick access to a member of staff at all times of the day and night. Children receiving specialist medical care may need to have responsibility for their health care needs transferred to the health services where the school is located. Provision should be made for those children who require regular medication or other treatment.

40. Schools should ensure that children have an opportunity to have contact with the wider community where the school is based. This may be through contact with relevant professionals and through local sports, leisure, youth groups or others as appropriate.

41. Schools should keep parents informed of the educational progress of their child and of their welfare. This may need on occasion to be done through placing authorities.

42. Schools will be involved in child care planning and review arrangements for individual children. Where a child is looked after by a local authority the child and school will be involved in child care reviews and decisions affecting the child. Where children are the subject of a supervision requirement from a children's hearing arrangements need to be in place to provide reports for the Hearing covering education and care needs. Education, as well as care staff, should contribute to planning and review of care arrangements for individual children.

### **Child Protection Issues**

43. Children may suffer physical, sexual or emotional abuse either at home or away from the school, or within the school itself, by staff, other adults including parents, and other children. Staff should be aware of behavioural and physical indicators that may draw attention to the possibility of abuse. To ensure, as far as possible, that the welfare of children is secured, schools should have recognised procedures for responding to allegations of abuse. These can be based on guidelines circulated by the Scottish Council for Independent Schools.<sup>6</sup>

44. Procedures should be compatible with procedures laid down by the Child Protection Committee for the locality in which the school is situated. Local authorities placing children should inform schools of their child protection procedures. The local social work department is responsible for ensuring that inquiries are made into allegations or suspicions of abuse. If the allegations refer to abuse at the child's home or home area this is a matter for the placing authority. Schools should provide for

- a senior member of staff to have responsibility for co-ordinating child protection within the school, and for liaison with the local social work department and placing authority
- a detailed record to be made when abuse is alleged, and for the local social work department (and placing local authority where applicable) to be informed at once. The social work department in consultation with the police and other relevant agencies will decide how to proceed and will discuss with the placing authority the appropriate steps to take
- appropriate arrangements with the placing social work department for parents to be informed or arrangements for the school to do this

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<sup>6</sup> Guidelines for Child Protection for Independent Schools in Scotland by Kathleen Marshall.

- any complaint of abuse to be independently investigated involving the police as necessary.

45. Schools should co-operate fully with any inquiries or investigation in order to establish the truth and details of any allegation of abuse. They are responsible for safeguarding the welfare of their pupils. Where members of staff or others are under suspicion proprietors and managers will need to act in accordance with the requirements of the police and social work staff dealing with the allegation in order to ensure that there is a proper investigation and that children are fully protected. This may mean suspending staff from duty and instituting disciplinary proceedings in addition to any action taken by the police. Even where there is insufficient evidence for a prosecution, consideration should be given to the possible need for disciplinary proceedings and ultimately dismissal of a staff member. Where the alleged perpetrator is a fellow resident both placing authorities should be informed as well as the local social work department. Care will need to be taken in any contact between the parties whilst the investigation is underway. Schools should also consider the need for counselling by specialist practitioners for children who have suffered abuse and any others closely involved. They should also have regard to the effect on other children and staff in the school.

# Secure Accommodation

## Introduction

- Section 17* 1. In discharging their duties to look after certain children local authorities have to provide or arrange the provision of secure accommodation. The Secretary of
- Section 75* State is empowered to make regulations on the provision and use of secure accommodation. These are set out as the Secure Accommodation (Scotland) Regulations 1996.
- Section 70* 2. A child may be placed in secure accommodation under a supervision requirement made by a children's hearing. He or she may also be placed in such accommodation by the court in certain circumstances under Parts V and XI of the Criminal Procedure (Scotland) Act 1995. In other situations the chief social work officer can authorise a placement in secure accommodation with the agreement of the person in charge of the establishment.

## Purpose and use

3. Secure accommodation is a form of residential care for children in buildings which they cannot freely leave. Such children have been found to be a significant danger to themselves or others in the community. As a form of serious intervention, secure care is designed to rehabilitate them and, where necessary, protect the public. This involves controlling the child, including taking away their freedom; assessing the child's behaviour and needs; and providing care, including health and education.
4. Secure accommodation is a small but essential part of the overall network of services for children, which will be included in children's services plans. Restricting the liberty of children is a serious step which should only be taken when all possible options for meeting the child's needs and the need to protect others have been explored. This underlines the need for a chief social work officer, in considering the possibility of a secure placement, to identify the aims and objectives of such a placement in terms of the child's assessed behaviour and needs, and the capacity of the establishment to meet those aims and objectives. Secure placements, once made, should be only for so long as it is in the best interests of the child. The suitability of the placement should be kept under review. The care plan must include the support and supervision which the child will need after leaving secure accommodation.
5. This guidance sets out the implications of the Secure Accommodation Regulations for the provision of secure care. It also provides advice on the quality of care and the need for each secure unit to draw up a quality development plan.

## Regulations

### Approval by the Secretary of State

- Regulation 3* 6. The provision and use of secure accommodation in a residential establishment requires the Secretary of State's approval. Approval is on such terms and conditions

as the Secretary of State thinks fit. These may include the maximum number of children who can be accommodated; the duration of approval; compliance with all relevant legislation and regulations; that the establishment is properly conducted; and any further conditions, (for instance, the placement of a child in smaller units providing two beds is normally restricted to periods of up to seventy-two hours).

7. Secure accommodation must be approved as suitable for the care of children, including their education and health. It is subject to regular review for the purpose of re-approval by officers acting on behalf of the Secretary of State. This is normally done at least every three years. As part of the approval process, the Social Work Services Inspectorate (SWSI) inspects the quality of care, security and organisation and management. HM Inspectorate of Schools (HMI) is responsible for inspecting the adequacy and efficiency of educational provision in secure units. This includes an examination of the management and organisation of education in the unit and observation of work being undertaken in classes. The standards of care provided in secure units managed by local authorities are also subject to inspection by the local authority's inspection unit.

### **Welfare of children**

8. The managers of the secure establishment are under a duty in consultation with the person in charge, to ensure that the welfare of each child looked after is safeguarded and promoted and that the child receives provision for his or her education, development and control as is conducive to his or her best interests.

*Regulation 4*

### **Records**

9. The managers, in consultation with the person in charge of the secure establishment in which the child is placed, must keep a record of the child's placement in such accommodation. This should clearly distinguish between placement in secure accommodation and placement in open accommodation in the same establishment. The record must include

*Regulation 16*

- the child's full name, sex and date of birth
- the supervision requirement, order or provision by reference to which the placement was made
- the date and time of the placement, reasons for and persons authorising the placement, and the child's previous address
- the name and address of each person notified about the placement
- the outcomes of the placement
- the date and time of the child's discharge, the name of the person authorising his or her discharge and his or her subsequent address.

These records should be available for inspection by the Secretary of State and, where relevant, by the local inspection unit.

10. Good practice would require that the following information is also recorded
- characteristics of the child
  - previous involvement of the local authority
  - reasons for admission
  - assessment of needs, with reference to development, education and health, and behaviour

- care plan and programmes of intervention
- summary notes of medical examinations, ongoing health problems, routine medication, diagnosis and treatment for episodes of acute injury or illness, referral to specialists
- psychological and psychiatric reports
- accidents
- education reports
- social work reports
- mobility and leave arrangements
- complaints and their outcome
- use of measures of control (including the use of a single locked room)
- arrangements for throughcare and aftercare
- reasons for discharge
- place to which discharged.

Children's records should be comprehensive and up-to-date. They should include cross-references to other records with more detailed information. Records should be checked regularly by the person in charge. They should be available to the social worker for the responsible local authority.

*Regulation 5* **Maximum period in secure accommodation without authority**

11. A child may be kept in secure accommodation for a maximum period of seventy-two hours (excluding Sundays and public holidays) under the Act or the Criminal Procedure (Scotland) Act 1995 (whether seventy-two hours consecutively or seventy-two hours in aggregate in any period of twenty-eight consecutive days) without the authority of a children's hearing or a sheriff.

## **Children (Scotland) Act 1995**

*Regulation 6* **Certain supervision requirements - interim placement**

12. A child who is subject to a supervision requirement under section 70 of the Act but not subject to a condition under section 70(9) that he or she is liable to be placed and kept in secure accommodation, may not be placed in such accommodation unless the chief social work officer of the local authority responsible for implementing the requirement and the person in charge of the residential establishment are satisfied that there is a necessity for such a placement because the child

- having previously absconded, is likely to abscond unless kept in secure accommodation, and, if he or she absconds, it is likely that his or her physical, mental or moral welfare will be at risk, or
- is likely to injure himself or herself or some other person unless he or she is kept in such accommodation.

The chief social work officer should also be satisfied that it is in the child's best interests that he or she is placed and kept in secure accommodation and that the particular placement is appropriate to the child's needs having regard to the

establishment's statement of functions and objectives. In reaching these conclusions the chief social work officer should, so far as is reasonably practicable, seek and take into account the views of the child.

13. Immediately following the child's placement in secure accommodation the chief social work officer should inform in writing the parents or guardian and the Principal Reporter. In addition the chief social work officer should forthwith, and in any event within twenty-four hours of the placement, irrespective of whether the child is still held in secure accommodation, refer the case to the Principal Reporter informing him in writing of *Regulation 6*

- the details of that placement and any subsequent placement or release
- the reasons why the chief social work officer and person in charge were satisfied of the necessity for such a placement, that it was in the child's best interests and appropriate to his or her needs and whether or not they are still satisfied and the reasons why
- the views of the chief social work officer and the person in charge as to the continuing need for the child's placement in secure accommodation.

On receiving the referral and related information the Principal Reporter should arrange a review of the supervision requirement by a children's hearing within seventy-two hours of the child's placement in secure accommodation.

#### **Other children looked after - interim placement**

14. A child who is being looked after by a local authority under chapters 1 or 4 of Part II of the Act may not be placed in secure accommodation unless the chief social work officer of the local authority looking after the child and the person in charge of the residential establishment providing the secure accommodation are each satisfied with regard to the same considerations identified in paragraph 12. In addition each must be satisfied that the child may be in need of compulsory measures of supervision. *Regulation 7*

15. Immediately following the child's placement in secure accommodation the chief social work officer should notify the parties identified in paragraph 13. In addition the chief social work officer should within twenty-four hours of the placement, and irrespective of whether the child is still held in secure accommodation, refer the case to the Principal Reporter and inform him in writing of *Regulation 7*

- the details of that placement and any subsequent placement or release
- the reasons why the chief social work officer and the person in charge believed that the child may be in need of compulsory measures of supervision and whether or not they still believe the child may need such measures
- the reasons why the chief social work officer and the person in charge were satisfied of the necessity for such a placement, that it was in the child's best interests and appropriate to his or her needs and whether or not they are still satisfied and the reasons why
- the views of the chief social work officer and the person in charge as to the continuing need for the child's placement in secure accommodation.

*Regulation 8* 16. On receiving the referral and related information and within seventy-two hours of the child's placement in secure accommodation the Principal Reporter should proceed with the case. Where the Principal Reporter decides that a children's hearing does not require to be arranged, he must inform the local authority within those seventy-two hours to arrange for the child's release from secure accommodation and for his or her parents or guardian to be informed. If he decides to refer the child to the local authority for the consideration of the provision of advice, guidance and assistance he must also do so within the seventy-two hours. If it appears to the Principal Reporter that the child is in need of compulsory measures of supervision he should arrange for a children's hearing to sit and consider the case within seventy-two hours of the child's placement in secure accommodation. However, if it is not reasonably practicable for the Principal Reporter to arrange for a Hearing within seventy-two hours or for him to state the grounds for referral in this period he has a further period of twenty-four hours to arrange a Hearing.

**Secure accommodation as a place of safety**

*Regulation 9* 17. When a child is taken to a place of safety under a warrant or order made by a sheriff or a children's hearing, and that warrant or order does not provide for the child to be liable to be placed in secure accommodation, the child may only be so placed where the chief social work officer and person in charge of the establishment are satisfied with regard to the considerations identified in paragraph 12. The Principal Reporter and the child's parents or guardian must be informed in writing forthwith of the placement.

*Regulation 9* 18. Where the child has been placed in secure accommodation after failing to attend a children's hearing and a warrant has been issued to find the child and keep him or her in a place of safety and bring him or her before a hearing the Principal Reporter should, wherever possible, arrange for a children's hearing to sit on the first working day after the child has been found. When a child has been placed in secure accommodation as a place of safety under other provisions the Principal Reporter should arrange for a children's hearing to sit and consider the case within seventy-two hours of the child being placed in secure accommodation.

**Information for a children's hearing**

*Regulation 10* 19. When a local authority wishes to make a recommendation to a children's hearing that a child be placed in a named residential establishment providing secure accommodation subject to a secure condition or warrant for detention the chief social work officer must be satisfied that the child meets the criteria set out in section 70(10) of the Act and that such a placement is in the best interests of the child. In arriving at such a decision the chief social work officer should have regard to the establishment's statement of functions and objectives.

**Review of supervision requirement**

*Regulation 11* 20. Where a children's hearing makes a child the subject of a supervision requirement with a secure condition, or continues such a supervision requirement, the Principal Reporter should arrange a review of the supervision requirement within three months of the condition being made or continued.

*Regulation 12* 21. When a child is made the subject of a supervision requirement with a secure condition but is not placed in secure accommodation within the preceding six

weeks of it coming into effect the child or his or her parents or guardian may write to the Principal Reporter requesting that arrangements are made to have the supervision requirement reviewed by a children's hearing. When the Principal Reporter receives such a request he is obliged to arrange a children's hearing within twenty-one days from the date on which he received the request.

## **Criminal Procedure (Scotland) Act 1995**

### ***Detention in summary proceedings***

22. When a child appears before a sheriff in summary proceedings and pleads guilty to, or is found guilty of, an offence to which section 44 of the Criminal Procedure (Scotland) Act 1995 applies, the sheriff may order him or her to be detained in residential accommodation provided by a local authority for a period not exceeding a year. A child placed in residential accommodation under this provision should only be detained in secure accommodation when the chief social work officer and the person in charge of the residential establishment are satisfied that the child meets the requirements specified in paragraph 12.

*Regulation 13*

23. The child should be kept in secure accommodation only for so long as the person in charge of the establishment, with the agreement of the chief social work officer, considers necessary, subject to the arrangements for reviews set out in paragraph 28. In making a decision to release the child from such accommodation, the person in charge and the chief social work officer should take into account the best interests of the child and the need to protect the public.

### ***Children otherwise detained***

24. When a child is committed or remanded to a local authority by a court to be kept in a place of safety or is to be detained as a fine defaulter in a place chosen by the local authority he or she may not be placed in secure accommodation unless the chief social work officer and the person in charge of the residential establishment are each satisfied with respect to the requirements identified in paragraph 12. The child may be kept in secure accommodation only for so long as the person in charge of the residential establishment and the chief social work officer consider necessary, subject to the arrangements for review set out in paragraph 28.

*Regulation 14*

25. When a child is committed or remanded by a court outwith the area where he or she ordinarily resides the chief social work officer responsible for the child makes the decision about the appropriateness of the placement in secure accommodation. In reaching such a decision the chief social work officer should, where practicable, consult the chief social work officer in the area where the child ordinarily resides to ascertain whether the child is already known and, if so, to discuss relevant information.

26. Courts also have the power to commit or remand a child directly to secure accommodation under section 51(1)(a)(i) of the Criminal Procedure (Scotland) Act 1995. The responsible local authority has no discretion to move the child out of secure accommodation even where it believes that such a placement is no longer required.

27. When a child is detained under section 205 or 208 the Secretary of State is responsible for determining where he or she is placed and under what conditions.<sup>1</sup>

<sup>1</sup> See The Scottish Office Home Department Circular 26/93.

**Review of use of secure accommodation**

*Regulation 15* 28. The chief social work officer of the appropriate local authority, in consultation with the person in charge of the residential establishment providing the secure accommodation, should ensure that, where a child is detained in secure accommodation under the Criminal Procedure (Scotland) Act 1995 as identified in paragraphs 22 and 24, arrangements are made for them to review the child's case

- within seven days of the child's placement in secure accommodation, irrespective of whether the child is still held in secure accommodation
- at such times as seems necessary or appropriate to them in the light of the child's progress
- in any event at intervals of not more than three months.

The child should only continue to be detained in secure accommodation where, upon review, the chief social work officer and the person in charge of the residential establishment providing secure accommodation are satisfied that it is in the best interests of the child.

29. In conducting reviews the chief social work officer and the person in charge of the residential establishment providing secure accommodation should have regard to all the relevant circumstances, including

- the requirements identified in paragraph 12
- where practicable the views of the child and his or her parents or guardian.

*Regulation 15* 30. In conducting a review the chief social work officer and person in charge of the residential establishment providing secure accommodation should also obtain advice in relation to the detention of the child in secure accommodation from a secure placement review panel. Such a panel should be established by the local authority responsible for the management of a residential establishment providing secure accommodation or, in the absence of such, any local authority with such an establishment in its area. It should consist of at least three persons

- none of whom may be the chief social work officer or person in charge of the residential establishment providing secure accommodation, and
- one of whom must be an independent person who is neither a member of the Council nor an employee of a local authority or the residential establishment. For example this could be a representative of a voluntary organisation.

31. The chief social work officer and the person in charge of the residential establishment providing secure accommodation should provide the secure placement review panel with all the relevant facts of the child's case available to them so that the Panel can give informed advice about

- the necessity for such a placement, taking into account the considerations identified in paragraph 12
- whether such a placement is in the child's best interests
- whether this particular placement is appropriate to the child's needs
- the implications of the above for the current placement.

## Quality of Care

32. The needs and problems of children in secure accommodation are identified in the report "A Secure Remedy" (HMSO, 1996). Chapter 4 of this Volume of guidance addresses the principles and standards of care which should apply in all residential establishments for children, including secure units. There are, in addition, specific considerations which relate particularly to secure units and these are also addressed in terms of the eight principles set out in "Another Kind of Home" (HMSO, 1992).

### **Individuality and development**

33. Most children in secure care have been looked after for a number of years and are well known to agencies such as social work and education departments, the police and children's hearings. Some may have had contact with child and adolescent psychiatric services. Those responsible for the placement should provide all relevant information about the child in advance. When emergency admissions occur, information about immediate needs should accompany the child and further information should be forwarded as soon as possible. Otherwise there is a danger of focusing exclusively on the behaviour which led up to admission at the expense of wider and longer term considerations, such as the family situation.

34. A secure placement offers opportunities for change at a vital point in the child's life. The needs and problems of each child should be assessed, including their potential for change. This entails drawing together and analysing relevant information. Some information will already be available but other information may be missing. The assessment report should identify

- a social history of the family
- previous interventions by concerned agencies
- the child's development, education and health needs, including any special needs
- concerns that the child's behaviour is a risk to himself or herself or others
- the child's abilities and strengths which can be built on.

Where possible, the contribution of the secure unit to assessment should be agreed in advance with the placing authority. This should include arrangements for making relevant information about the child, for instance previous reports, available to the secure unit.

35. The person in charge of the secure unit should co-ordinate an integrated approach to assessment and work with the children to effect change. This will involve field social workers and specialists, such as psychiatrists and psychologists. The processes of assessment and intervention should be clearly set within the context of the care plan for each child which remains the responsibility of the placing authority.

36. The assessment leads to a programme of care, education and intervention which, as far as practicable, meets the child's needs and changes the behaviour which led to admission. The care plan should be agreed by relevant agencies and where possible by the child and his or her parents or guardian. A copy should be given to the child and his or her parents or guardian. Staff and other concerned

individuals should be aware of the main goals for each child and their role in helping the child to reach those goals. The child's progress should be reviewed every four weeks and the programme and care plan should be amended as necessary.

37. Children often leave secure accommodation and find themselves in vulnerable situations which may be similar to those which led to them going into secure accommodation in the first place. To prevent re-admission to secure care planning for the child's aftercare should commence, where reasonably practicable, before he or she is first admitted. This includes preparing the child in conjunction with agencies which have responsibility for aftercare provision. The guidance on throughcare and aftercare in chapter 7 of this Volume of guidance also applies to children who are or have been in secure accommodation.

### **Rights**

38. Children detained in secure accommodation have particular restrictions on their liberty. Each secure unit should convey a clear statement of their rights and responsibilities to children and parents. This information should include house rules, methods of control and complaints procedures. Children and parents should have opportunities to discuss rights and responsibilities with the key worker. The exercise of rights by children is enhanced by access to an independent person, such as a Children's Rights Officer, and relevant external agencies, such as Who Cares? Scotland. There should be an effective and accessible complaints procedure which provides children and parents with opportunities to express their views about the service. There should also be a procedure for processing and recording complaints and providing children and their parents with feedback on the outcome.

### **Good basic care**

39. The restricted environment of a secure unit should not conflict with good personal care. This should include a suitable range of leisure and recreational activities and respect for individual privacy in toilets, bathrooms and showers.

### **Education**

40. Pupils in secure accommodation have a wide range of educational needs. Some have significant difficulties in learning and social, emotional and behavioural problems. Many have had disrupted education from, in some cases, the early stages of primary school. Some have become alienated from school and are resistant to any form of education.

41. Effective teaching can turn around negative attitudes to teachers and convince children of the value and possibilities of education to change their lives and open up new horizons. A complete assessment of educational needs should be built on previous educational assessments made available by the placing authority in advance of the placement or as soon as possible after emergency admissions.

42. The curriculum in secure units should be broad, balanced and consistent and should help pupils make progress. Whenever possible, educational programmes should be close to the recommendations for the 5-14 Programme, to the Scottish Consultative Council on the Curriculum (SCCC) guidelines, or to the Higher Still Development Programme, including National Certificate courses. Curriculum

structures should be flexible and should take account of the educational and wider needs of each pupil within the resources available.

43. To help them plan educational programmes for pupils who are looked after for a short period, teachers can use the curriculum packages and modules which are available. The most successful approaches occur where the educational programmes for each pupil overlap with those for the learning group. Pupils benefit from learning in groups as well as from their own tutorials.

44. Learning support needs to be developed for those pupils with very low achievements in reading, writing and mathematics. These pupils may also need counselling to help them recognise their difficulties and believe that they are capable of learning. In addition, individualised educational programmes should be tailored to meet pupils' needs.

45. Positive outcomes should be achieved when teachers

- are confident that the course is relevant for the group and each pupil
- divide the curriculum in several ways so that each member of the group can take part at his or her own level
- convince the pupils that they are committed to them
- change, as appropriate, the pace of each lesson
- allow pupils to apply their learning, investigate, observe, experiment and draw conclusions
- choose suitable resources to support learning and teaching, for instance involving other professionals in particular educational activities
- give real choice and encourage independent learning
- maintain good standards of behaviour
- set realistic targets for educational attainment
- always praise pupils when they achieve something.

46. Staffing levels should be sufficient to ensure that teachers can manage the curriculum; meet and report on the educational needs of pupils; liaise with care staff and social workers; and develop their own skills. To provide a reasonably broad curriculum, the schools need staff with a range of qualifications. In many cases, qualified primary teachers take extra training or gain experience in working with older pupils with learning difficulties. However, specialists are needed to teach secondary courses which challenge and extend pupils. If they cannot take on a full-time member of staff in a particular subject, units can employ part-time tutors or arrange for local authority schools to provide support.

47. Secure units need a balance of teaching skills in English, mathematics, science, technical education, home economics, computing and information technology, the arts, physical education, religious and moral education, and personal and social development. If appropriate, a wider range of subjects should be available, including social subjects and modern foreign languages.

48. Senior management is responsible for ensuring co-operation between education and care staff. Co-operation tends to increase when care and education staff take

part in joint projects to which they can each contribute and which produce good results and are of mutual benefit, for instance care staff assisting with homework and teachers providing extra curricular activities. Such developments should be included in the quality development plan.

### **Health**

49. Children in secure units will experience the normal health and emotional experiences and problems of adolescence. They are more likely to have special health problems caused by adverse experiences and frequent changes of placement, which may mean that they have not received regular health care and advice. Consequently it may be necessary to identify and make up for any neglect of physical and emotional health, ophthalmic and dental needs in the children's earlier lives. Secure units should involve children in health screening programmes and promote healthy eating and lifestyles.

50. Children should have a routine medical examination at admission and before discharge from secure accommodation. The child's views should be taken into account in relation to seeing a male or female doctor and where the examination should take place. Examinations should generally take place in a suitable medical location. A full medical examination should be arranged when required. This would include a detailed medical report including a medical history, an assessment of the child's general health, identification of any medical problems and arrangements for care or treatment needed. If necessary, an assessment to identify the need for medical action to help physical development (for example to correct an eye squint or deafness) should be undertaken. The doctor should note any concerns about possible or recognised drug, alcohol or substance abuse. In making arrangements for medical examinations the child's consent must be obtained where he or she has "requisite capacity" in terms of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991.

51. Detailed records of examinations, recommended treatment and medication by the GP or a specialist should be held on a confidential basis in medical records which are normally kept by the GP. However, it is important for the overall care of the child that a summary of his or her health needs and provision is also held on his or her personal record. This limited information may be shared with the school nurse or key worker responsible for the child on a "need to know" basis when adequate arrangements to safeguard the information are in place.

52. Each secure unit should provide a statement on the management of problems associated with alcohol, drug and substance abuse. This should ensure that placing authorities and the person in charge inform those responsible for assessment, care planning and the delivery of programmes about any drug, alcohol and substance abuse problems when the child is admitted; staff are appropriately trained; and suitable use is made of medical and other local specialist services. The person in charge should make arrangements with the local Health Board for access to necessary specialist services. The implications of drug, alcohol and substance abuse should be part of the health education programme for all children.

53. Psychological and child and adolescent psychiatric services should be available to all secure units to assist by working directly with children, advising key workers, preparing reports, attending or submitting reports to review meetings and

contributing to staff training and development, particularly in understanding and dealing with challenging behaviour.

### **Partnerships with parents**

54. Parents and families should normally share the responsibility for the child's care and control. A shared approach is more likely to be achieved where parents have access to written information about their rights and responsibilities, including the complaints procedure, when the child is first placed in the secure unit. They should be encouraged to visit and keep in touch by 'phone. Normally visits and 'phone calls should be private but any breaches of security may necessitate restrictions, such as supervised visits. In addition they should be invited to attend review meetings and play an active part in all important decisions.

55. Where practicable, the child should maintain contact with his or her home to which he or she may ultimately return. Depending on the progress achieved by the child in the secure unit the placing authority should assess his or her readiness for mobility outside the unit and for home visits, on a supervised basis in the first instance, followed by weekend and extended leave arrangements. Proposals for mobility and leave should be discussed with the placing authority as part of the planned programme of care. Detailed arrangements for home leave should be agreed with the responsible social worker who may need to prepare the family. Contingency arrangements should be in place in the event of leave arrangements breaking down. Following the child's return from any unauthorised absence the secure unit and placing authority should consider whether leave arrangements should be changed. In reaching a decision the secure unit and placing authority should take into account the interests of the child and whether they would best be served by continuing, varying or stopping the programme of leave for a time. Leave should not be stopped simply as a punishment for the child's behaviour within the secure unit. Where children are detained under section 205 or 208 of the Criminal Procedure (Scotland) Act 1995 arrangements for mobility and leave must have the prior agreement of The Scottish Office Home Department.

### **Child centred collaboration**

56. Co-operation between social workers and unit staff is necessary in making and implementing care plans. To assist this

- the role of the social worker before, during and after secure care should be set out in agreements between the unit and placing local authority
- the social worker should explain to the child the reason(s) for placement in secure accommodation
- unit staff should be made aware of the need to co-operate with social workers
- the social worker should normally visit the child on a weekly basis for the first six weeks after admission, and then once every two weeks at least
- where necessary the social worker should contact the child by telephone
- the social worker should be clear as to the purpose of contact with the child.

Decisions about the child's care should be taken, where possible, in consultation with the field social worker. The social worker and, where appropriate, other key

agencies should be involved in important decisions for instance about sanctions, leave or change of placement. While the person in charge of the secure unit has a lead role in promoting and maintaining effective collaboration with key agencies the responsibilities of other staff, notably key workers and key teachers, should be identified in care plans and programmes for each child.

### **A feeling of safety**

57. Children should feel safe in secure accommodation and should be protected from harm from other children or staff. Containing and controlling very difficult behaviour is a daily problem in secure units. Control and sanctions should not be divorced from systems of management and care practice and planning in the unit. Staff in the unit should be trained in the care and control of children so that they can respond to children appropriately and with confidence. This includes creating opportunities for each child to speak to staff in private and seeking and taking into account the views of children on the running of the establishment.

58. Some children admitted to secure accommodation may have been subject to abuse or may have abused other children. Each secure unit should have a child protection policy and procedures. This should be clearly understood by children and parents. Staff should receive training so that they are familiar with the operation of the procedures. Any concerns should be recorded and the child's placing authority should be informed as soon as possible.

59. The number of staff available in a secure unit has an important bearing on the quality of care and control. Managers should ensure that each secure unit can meet the minimum requirement of two care staff on duty for any group of children during waking hours. In doing so they need to allow for sickness, leave and training. This will normally require a staff complement of three care staff to eight children during waking hours. The exact arrangements will depend on the care and education system in the unit. In determining whether higher levels of supervision are required managers should assess the characteristics of the group, the type of activity and the layout of the buildings. Learning groups are usually smaller and only require one teacher. At night in larger units there should be a minimum of two members of staff on duty, one of whom should be a woman if girls are in residence. In smaller units one member of staff should be on duty throughout the night and one member of staff should be sleeping in the building on call. The gender of staff should reflect that of the children in residence.

### **Care and Control<sup>2</sup>**

60. When a child's behaviour results in the use of physical restraint by staff details of the incident should be recorded in his or her personal record and the separate record of measures of control (responsibilities for maintaining log books are set out in chapter 4 of this Volume). This record should not only include details of the incident and how and by whom it was handled but also the events leading up to the incident and the child's views. Separate de-briefing sessions will be necessary for the child and staff involved in the incident. The placing authority or agency should also be informed about the incident.

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2 A UK training package "Taking care, taking control" was made available by the Social Work Services Inspectorate in 1996.

61. The use of a single locked room in a secure unit, which may be the child's own bedroom, to control a severely disturbed child is an extreme measure which should be taken only when appropriate methods of control have been tried and failed, for instance removing him or her to another part of the building. It should not be used as a punishment. A child may be placed in a single locked room only if he or she is a severe risk to himself or herself or others or his or her continued presence in the group is likely to have an unacceptably deleterious effect on them. Such a placement should be approved and recorded by the senior member of staff on duty and the person in charge and the child's social worker should be notified as soon as practicable. When the child specifically requests to be left in the room by himself or herself at least one member of staff should be available outside the room throughout the period.

62. A child placed in a single locked room should be observed at intervals of not more than fifteen minutes to monitor his or her condition and to protect the child from self-harm. When the child is asleep after the unit's normal bed time, judgement will need to be exercised about the continuing level of risk and the required frequency of observation. Observation should normally involve communication with the child. The child should be released as soon as his or her behaviour has improved. In any case, no child should be held in a single locked room unaccompanied by a member of staff for a continuous period longer than three hours in any period of twenty-four hours. An exception is when this period expires after the unit's normal bedtime and the child is asleep, in which case the child may be held in the single locked room until he or she awakens the next morning. A separate record should be maintained of all placements in the single locked room showing the date and time of the placement; the reasons for the placement; who authorised the placement; who was informed of the placement; times when the child was observed; the date and time of release and any comments made by the child about the placement.

### **Quality Development Plan**

63. The managers of each secure unit provided by a local authority or, in any other cases, the managers in consultation with the person in charge of the unit, should draw up a quality development plan. The purpose of the plan is to ensure that necessary action is taken to improve the performance of the secure unit. In drawing up the plan the views of children residing in the secure unit about its strengths and weaknesses should be taken into account. The quality development plan

- lists key priorities for improving the performance of the unit, particularly in relation to the quality of care and education provided, for instance weaknesses may be identified by reviewing the statement of functions and objectives
- identifies steps which can be taken to improve performance, including action to implement recommendations made in inspection reports. Considerations might include the development of standard admissions forms and assessment procedures; improving the capacity of the unit to contain and treat particularly challenging and difficult children; identifying targets for action in relation to drug, alcohol and substance abuse; increasing repair, maintenance and furnishing budgets; improving staff levels, training and the balance of skills.

64. Management should review the quality development plan every three months. The quality development plan should dovetail with reviews of the establishments'

statement of functions and objectives. It is likely that the plan will take the form of a rolling programme with new priorities, which reflect changing circumstances, replacing old priorities as the latter are achieved.

# Throughcare and Aftercare

1. Local authorities have major responsibilities towards children whom they look after under the Act in preparing them for when they are no longer looked after and for supporting them at that time. Every year 1,000 - 1,200 young people over the age of sixteen cease to be looked after by local authorities in Scotland. The responsibilities under the Act in respect of these young people are assigned to local authorities. These are corporate responsibilities and although in many instances social work will be the key department, other departments, particularly education and housing, will have considerable contributions to make.

2. *Throughcare* is the process by which the local authority plans and prepares the young person they are looking after for the time when he or she will cease to be looked after. *Aftercare* is the provision of advice, guidance and assistance when a young person ceases to be looked after.

## Statutory Provisions

3. The local authority has a duty to provide advice and assistance with a view to preparing a child for when he or she is no longer looked after by a local authority. *Section 17*
4. Where it appears to a local authority that an appropriate person could be doing certain things to help in the exercise of any of their functions the local authority may specify their nature and request the help of that person. Appropriate persons are defined as other local authorities, Health Boards, NHS Trusts and any person authorised by the Secretary of State; and they are required to comply with such a request provided that it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions. *Section 21*
5. A local authority may provide accommodation for any person within their area who is at least eighteen years of age but not yet twenty-one if they consider that to do so would safeguard or promote his or her welfare. *Section 25(3)*
6. The specific duties and powers to provide aftercare apply where the child was being looked after at school leaving age or thereafter. The local authority has a duty unless they are satisfied that the young person's welfare does not require it, to advise, guide and assist such a young person in their area who is not yet nineteen years of age. *Section 29*  
*Section 29(1)*
7. The local authority is empowered to assist the same category of young people as set out in section 29(1) who are at least nineteen but less than twenty-one and who request assistance from the authority. The authority may provide assistance unless they are satisfied that their welfare does not require it. *Section 29(2)*
8. Assistance may include assistance in kind or in cash. *Section 29(3)*

*Section 29(4)* 9. Where either a person who is over school age ceases to be looked after by a local authority, or a person who is not yet nineteen who is receiving aftercare under section 29(1), proposes to move to the area of a different local authority, the first local authority is under a duty to inform the other local authority of the proposed move provided that the person consents to their doing so.

*Section 30* 10. The local authority is empowered to give financial assistance towards the expenses of education or training of a young person under the age of twenty-one who at the time of ceasing to be of school age was being looked after by the local authority. Contributions can also be made to the cost of accommodation and maintenance of such a person in any place where he or she may be receiving such education or training. These powers are exercisable until the young person reaches the age of twenty-one or, if over twenty-one, until he or she finishes the course of education or training. If after he or she has reached twenty-one, the course is interrupted, assistance may only be continued if he or she resumes the course as soon as practicable.

*Section 30(1)* 11. Assistance may be granted to enable a young person under the age of twenty-one, who at the time of ceasing to be of school age was being looked after by the local authority, to meet expenses in respect of contributions to the accommodation and maintenance of the person in any place near his or her employment.

The discretions in this paragraph and in paragraph 10 are without prejudice to the existing general social welfare powers available to local authorities under section 12 of the Social Work (Scotland) Act 1968.

### **The Young People Concerned**

12. Young people who are looked after by the local authority may be living in residential settings, in foster placements, with relatives or friends or may be living at home. Their needs will vary. Throughcare is particularly relevant for those young people living away from home who are returning to live with their family or to live independently. But those who are living at home will also have needs to be addressed when they cease to be looked after.

13. The preparation of a young person for the time when he or she ceases to be looked after should be an integral part of the care plan of that young person and should be considered before he or she begins to be looked after. It should be considered at successive care reviews whether the eventual move for the young person is to live with his or her family or to live independently.

14. The provision of care and support for young people by their parents does not generally cease at a particular age and may continue long after a young person has reached adulthood. It will change to meet the specific needs of the young person and will sometimes include the provision of accommodation, financial support and advice and assistance well into adulthood.

15. In discharging their duty of aftercare to those young people who were looked after by them at school leaving age - or beyond - local authorities are bound to determine the support most appropriate to each young person's needs after he or she ceases to be looked after. This should be derived from the care plan. While social work departments will take the lead role, they should take into account the

contributions which can be made by other departments, agencies and organisations and seek their collaboration.

16. Placement stability, ongoing parental and wider family contact, continuity of educational experiences, good health care and monitoring and the ongoing preparation of a young person in the acquisition of skills for independent living will have beneficial effects for a young person no longer looked after by the local authority. A young person should not move on to independence too quickly. Research suggests that the age of sixteen for most young people is too young to make a successful transition. The family's role in the ongoing support of the young person should always be a prime consideration in any move or change for the young person. Many young people who are not able to live with their families will continue to need to be looked after by the local authority until they are eighteen years old and may require support and the provision of services beyond that age.

17. In discharging their duty to look after a young person the local authority is required to promote on a regular basis, personal relations and direct contact between him or her and any person with parental responsibilities, if this is practicable and appropriate. It is important for a young person moving to independence that ongoing contact with their extended family is maintained. This is often a time when a young person who does not live with his or her family will want to re-establish contact and renegotiate his or her role in the family. Without contact the young person may be isolated and more vulnerable emotionally, his or her main contacts often being only with social work staff. *Section 17(1)(c)*

18. The young person's religious persuasion, racial origin and cultural and linguistic background will be important factors in maintaining a sense of personal identity and worth. Special consideration needs to be given to these matters in care planning and how his or her needs in relation to these factors are to be met when the young person is no longer looked after by the local authority. *Section 17(4)(c)*

19. It is a consistent theme of the Act that children and young people should have the opportunity to express their views whenever decisions are being taken about their lives. They should be involved in planning aftercare. They should receive information about their rights and about the resources and services available, so that they can play a real part in planning and make informed decisions about their future. Advice, information and support should, if necessary, include housing, accommodation, living independently, employment and training, health and financial matters.

### **Policy and Planning**

20. Children's services plans should set out policies and intended arrangements for throughcare and aftercare services. The social work department of local authorities have the lead responsibility, but in discharging it they should involve other relevant departments, agencies and organisations, making full use of the duty to collaborate set out in the Act.

21. The provision in the Act for local authorities to request co-operation from other local authorities, Health Boards and NHS Trusts is an opportunity for an authority to broaden the services available to young people who cease to be looked after and include them in children's services plans. *Section 21*

22. Plans need to take account of the diversity of needs that young people have, including the needs of those with learning and physical difficulties, those with particular cultural and religious needs, young parents and those with mental health difficulties. They should set out proposals to address young people's educational, training, accommodation and employment needs and their health needs.

23. Responsibility for throughcare and aftercare services needs to be at a senior level and one way of achieving effective management direction is to designate a senior officer in social work to be responsible for the development and maintenance of throughcare and aftercare services. Senior housing and education officers might also be designated with responsibility for housing and education contributions to the development of throughcare. Within housing, it would be helpful if the same officer had responsibility for housing and community care, and services for homeless people. Young people, their parents and carers should have the opportunity to contribute to the development and review of plans.

24. The development of an "Inter-agency, Throughcare and Aftercare" panel may be worth considering. Such a panel could have representatives from the social work department, education department, housing department, Scottish Children's Reporter Administration, careers service, Health Board, NHS Trust, police, Benefits Agency, youth/community services, appropriate local voluntary organisations and housing agencies, young people's groups eg Who Cares? Scotland and Scottish Homes. The panel could promote communication between agencies and help develop a common understanding of concepts and language used such as "vulnerable". It could also facilitate the monitoring and evaluation of services, recommend action to be taken by specific agencies and stimulate joint training initiatives.

### **Care Planning and Reviews**

25. In ensuring that a young person moves smoothly and with a positive outcome from being looked after by a local authority to a return to their family or to independent living (or if appropriate to remaining at home), a social work department will need to work closely with the young person in order to formulate a clear care plan which will meet his or her needs.

*Regulation 4* 26. The Arrangements to Look After Children (Scotland) Regulations 1996, require a local authority to produce a care plan for those young people looked after by them. The regulations lay down the matters to be considered in the care plan, and include the arrangements which need to be made for the time when the young person will no longer be looked after by the local authority. Developing a plan should not be a paper exercise but a dynamic process in working with the young person to assess needs, arrange services and review progress.

27. The arrangements in the care plan should be agreed by the local authority and the young person, their parent or anyone with parental responsibility, so far as is reasonably practicable. Many young people will continue living or return to live with their parents, and in many cases the parents' role is a key one, even where the young person is not living with them, as they may have a substantial amount of support and assistance to offer. In the development of the plan the young person's welfare should remain the paramount consideration. Existing carers should normally be involved. The young person should be fully involved in the plans for their future and able to make their views clearly known. Young people at this point may have

ambivalent views about their future. They may feel that they are grown up and should be able to care for themselves, but may not be sure that they are ready to do so. They may give messages that are confused and contradictory and they may need time to consider issues about their future. This can also be a difficult time for parents and they may benefit from the offer of additional help and support.

28. Work with young people at this point needs to be flexible to cope with mistakes or the breakdown of plans and the plan may have to be renegotiated frequently. Preparation for a young person moving to independence should be specifically addressed in the care plan of all young people over the age of fourteen years. A balance needs to be struck between ensuring that preparation starts early enough to have the required resources in place when needed but not too early to give the young person a feeling that they are being hurried through a process which must end with him or her moving on when he or she does not feel ready to do so.

29. If remaining or returning to live with his or her parents is not possible then it will be necessary to look at how more independent living can be achieved. This may not be possible for all and plans will need to address what level of independence is in the young person's best interests. For each young person this will be different. The age at which young people will be ready to move to independence and the pace at which this move should take will vary considerably. The first move may be different for each young person. For example, it may be to supported accommodation, to their own tenancy or may involve remaining with existing foster carers on a different financial basis.

30. Young people who are parents themselves may need particular support and assistance. Local authorities will need to consider how appropriate accommodation can be provided to meet their needs. Mainstream children's homes may not be the right place, although the young person concerned may still require the support of trained staff if living in a place without resident staff.

31. Some young people are living in chaotic circumstances subject to frequent changes. Care plans require in-built flexibility in order to respond to this and to potential crisis situations. The individual plans should deal explicitly with support needs which may include assistance to develop self care, hygiene, budgetary and other skills eg completion of forms and negotiations over the telephone.

32. Individual care plans should

- include a preliminary assessment of follow-on accommodation and support needs
- make specific proposals
- clarifying the objectives and responsibilities of social work staff and the potential role of other agencies
- ensure a young person's access to the information, support and preparation that he or she requires to make a positive transition to independence
- identify a designated key worker with overall responsibility for co-ordinating services, including follow-on accommodation, support and care management
- record the expected contributions of housing and education departments, (including careers and employment advice), housing associations, health and voluntary support agencies.

33. Preparation should include attention, if appropriate, to opportunities for further education, training for employment and developing skills for independent living. Consideration should be given to the young person's use of their social and leisure time, drawing upon the local authority's resources and facilities to encourage young people to maximise their full potential.

### **Young People with Special Needs**

34. Many young people who are looked after will have special needs. These may be due to learning difficulties or physical disabilities. They may also have mental health difficulties or difficulties with alcohol and substance misuse. These young people will have particular needs over and above the needs of other young people who are being looked after and these special needs should be considered when preparing young people for the time when they cease to be looked after by the local authority and in the subsequent provision of aftercare. Health care needs should be assessed by health care staff and health services to meet the needs identified.

35. Local authorities should have information on special resources and services necessary to meet the needs of young people with special needs. Liaison should take place between social work, education departments and health services. Voluntary organisations often provide specialist services; good liaison and the development of service level agreements is needed with them. The local authority needs to take any steps necessary to ensure that the views of these young people about their needs, and the ways in which these can be met, are taken into account. This may necessitate the use of skilled communicators and communication support, for example, text telephones or interpreters for those with a hearing impairment.

36. Young people with special needs may also have special accommodation needs. Whether this accommodation is to be provided in supported accommodation or in other housing, social work departments should liaise with housing departments, housing associations, Scottish Homes and other providers on the planning of housing provision, as well as addressing the needs of individual young people. Arrangements should be in place for joint assessment of needs and for action to meet these needs in individual cases.

37. Many young people with special needs who have previously been looked after may continue to live with their foster carers but in adult fostering schemes. The transition in moving from these foster carers to independent living may take a considerable period of time.

38. Local authorities need to prepare young people for the transition from children's to adult services. This may involve an assessment for community care services. It may be sensible to combine the key worker and care manager role to ensure an integrated assessment of the young person's needs including their aftercare needs.

### **Young People's Relationships and Self-Esteem**

39. Many young people who have been looked after by local authorities will require support and help in building and maintaining social and personal relationships and developing self-esteem.

40. The capacity to form satisfying relationships with others will help the young person to cope with the transition to adulthood and any difficulties associated with

ceasing to be looked after. While being looked after, young people's personal development should be promoted and the following points taken into account

- changes in placements should be kept to the minimum consistent with the young person's welfare, thereby providing continuity of care and of relationships
- social workers and residential staff have important roles in helping young people to form rewarding relationships with other people
- foster carers can be encouraged to continue to take an interest in a young person even when a fostering placement has ended. This may include the young person returning to stay overnight or at weekends
- a young person's parents (and relatives generally) should be encouraged to stay in touch with him or her unless this would not be in the young person's best interests
- young people from ethnic minorities will need to have contact with adults and young people from their own cultural background and may benefit from practical suggestions eg to be put in touch with youth clubs or other organisations set up for people from their cultures
- young people with disabilities have particular needs, and it may be useful to refer them to voluntary organisations of, and for people with similar disabilities, to support them in finding friends and developing social skills
- young people with mental health difficulties may require specialist help and assistance. Services for young people with mental health needs are not widely available.

41. A local authority, in preparing a young person for the future, should also take account, where appropriate, of the need to enable the young person to relate better to his or her own family and of the part that they will be playing in the young person's future. Even if it is proved to be impracticable or undesirable for a young person to return to live with his family any improvement in relationships between a young person and his or her family that can be achieved is usually to be welcomed. Contact with family and friends should be promoted where consistent with a young person's welfare.

42. Sex education may be provided by the young person's school. Due to frequent moves of school some young people may miss out on sex education provided by schools. The provision of appropriate sex education is vital since sexual development is a powerful influence on young people in the transition from childhood to adulthood. The social work department should ensure that appropriate sex education has been provided.

43. Sex education will need to cover practical issues such as pregnancy, contraception and the prevention of the spread of sexually transmitted diseases. It should cover the emotional aspects of sexuality, such as the part that sexuality plays in the young person's sense of identity and the emotional implications of entering into a sexual relationship with another person. It should also cover the right to say "no" and the need to treat sexual partners with consideration. It should refer to the dangers of sexual exploitation. The emotional and practical implications of becoming a parent should be conveyed.

44. Young people with mental or physical disabilities have sexual needs and they should be provided with appropriate sex education. Young people who have been abused, or have been in touch with abused young people, may need special support if they are not to regard sexual feelings as a matter for shame or to regard sexual relationships as impersonal and exploitative. The needs and concerns of gay young men and women should be understood and addressed. Young people from minority ethnic cultural and religious backgrounds may have issues to explore about their own and their community's views on sexuality.

### **Aftercare Provision**

45. Young people who are being looked after by the local authority and who will be moving on to independence need help and support in preparing for this move. Local authorities will need to determine in consultation with each young person what is required. Young people being looked after by the local authority should learn to cook, wash and clean for themselves, to manage their own money and to budget within a limited income. They should be encouraged to eat healthily and exercise regularly.

46. Some young people may have had limited opportunity to learn skills. They should - like any other young people - start to learn these skills when entering their teens and should be well advanced in them by the time they move to live independently. Some young people may require more support than others and individually tailored programmes should be developed in order to meet specific needs. For example, a young person with hearing difficulties who does not "sign", but wants to learn to, should be given access to appropriate courses.

47. Those young people who spend a considerable time in residential schools may miss out on particular learning opportunities and consideration should be given in these settings to the preparation which they require. Schools should give young people a range of relevant experiences and this should be addressed at care reviews.

### **Provision of Services**

48. Most young people will continue to need some help after they cease to be looked after by the local authority. This may include any or all of the following

- advice and information
- a continued interest in their welfare, possibly from a person specified to advise and befriend the young person
- assistance in cash or in kind
- return to being looked after, if necessary
- education and training
- accommodation
- health needs
- contact with their family.

The provision of services will need to be from across a range of local authority provision not just from the social work department.

49. If a young person has been fostered, his or her foster carers may continue to give advice, support and friendship after the end of the foster placement. Foster carers often continue to offer such support and should not be financially disadvantaged by doing this. They may continue to provide accommodation or services on a paid basis.

50. Young people may move to a different part of the country after leaving care and they should receive support if they require it. The local authority that has been helping them must inform the local authority into whose area they have moved unless the young person does not wish them to do so. The local authority should seek to ascertain the young person's views about this. The second local authority will then assume the relevant powers and duties. *Section 29(4)*

51. In discharging its duties and powers of aftercare a local authority may wish to provide some services in conjunction with voluntary agencies. Smaller local authorities may wish to make joint arrangements for the provision of services.

### **Specialist aftercare services**

52. The range and level of aftercare services is a matter for each local authority to decide in accordance with their policy and resource priorities. Some young people may require extensive forms of support; others will be capable of more independent living with less support and some will remain living at home. Each authority should have in place ways of dealing with breakdowns of young people's arrangements in emergencies. To help young people avoid drifting into crisis situations, they should be encouraged to develop wider networks of support which reach beyond public authorities. These may involve contacts with voluntary organisations, particularly those providing specialist youth services where the opportunity to form relationships and obtain support will help the young people to build their confidence and to take control of their own lives.

53. A keyworker should be identified to co-ordinate services, to review individual needs and objectives and to monitor outcomes. The keyworker could be drawn from a number of different agencies which are directly involved in assisting the young person and wherever possible the young person should have a say in determining who this co-ordinator might be. This person could, but need not, be a social worker. He or she could be a housing worker, youth or support worker, criminal justice worker or mental health professional and could be employed by either a statutory or non-statutory agency. Co-ordinating should involve

- focusing on immediate practical problems and accommodation and financial matters
- planning to respond to support needs, in consultation with the young person and relevant agencies
- reviewing needs and plans in consultation with the young person
- ensuring that specialist resources are in place when required.

The nominated keyworker should retain responsibility for reviewing arrangements for the individual young person.

### **Advice and "drop-in" services**

54. The experience of statutory bodies and many other agencies who work with vulnerable and homeless young people reinforces the importance of developing

easily accessible advice services, recognising that often young people do not feel comfortable with or confident in gaining an appropriate response from services designed for adults.

55. Young people should be assisted through advice and advocacy to secure their entitlement to welfare benefits, as well as access to housing, support and health services. Established advice and support services, particularly housing and homelessness advice services, may have a part to play. Collaboration between local authority staff should help young people to get consistent advice when they approach different departments.

56. Outreach services in the community can often help young people who are out of contact with mainstream services; these may cover those sleeping rough, in bed and breakfast, in hospital, in prison or other offenders' establishments and those with mental health difficulties or involved in alcohol or substance misuse.

### **Accommodation**

57. If a young person becomes homeless, the local authority should offer assistance to tackle this problem and to minimise the risk of it recurring. While some young people may simply require a house, others may require varying levels of support to obtain a tenancy, and then to maintain themselves in one. There should be arrangements in place between social work, housing, health, and other agencies to ensure appropriate housing and support is provided, in an integrated manner under relevant housing, social work or other legislation as well as the Act.

### **Health Care**

58. Whilst a young person has been looked after, the local authority will have drawn up a care plan which should ensure that they receive health care including any necessary medical, psychiatric, psychological, dental or ophthalmic attention. Young people's needs can change rapidly and when a young person ceases to be looked after, an assessment should be made of their health needs and clarification of whether any special services need to be in place for them. Social work and health services should agree arrangements to cover the transition of a young person into independence and address how their health needs will be met within services for adults.

59. Some young people may have more complex long term health needs. For example young people with serious mental health difficulties need skilled support provided jointly by health and social work professionals. They may present as a very challenging group who are difficult to keep contact with and present many practical problems in living independently. This may also apply to young people who misuse drugs and alcohol. Identification of such issues prior to a young person ceasing to be looked after and the delivery of aftercare services needs a multi-disciplinary approach.

60. Carers and residential staff should help young people whilst being looked after to see the importance of looking after their health and encourage them to take responsibility for their own health care. They should provide information about their rights to confidential treatment. When moving to live independently a young person should be encouraged to become familiar with the range of services and advice which the primary health care team can offer.

## **Young People, the Children's Hearings and the Criminal Justice System**

61. Young people may be looked after as a consequence of their offending and if offending continues beyond their sixteenth birthday, they are liable to be dealt with in the criminal courts. Where a young person of sixteen or seventeen is still subject to a supervision requirement and appears in court under criminal justice provisions, the case may, in certain circumstances, be referred to the Principal Reporter so that advice can be provided by a children's hearing. Depending on this advice, the court may either deal with the case itself or remit the young person to a children's hearing for disposal. In addition the court may remit the case of any young person not within six months of attaining the age of eighteen whether or not they have been under supervision.

62. To make best use of these flexible provisions in the law, local authority children's and criminal justice services should be co-ordinated.<sup>1</sup>

63. Where a young person is still being looked after or where a social worker with child care responsibilities still has an active interest in the young person's aftercare, consideration should be given to whether the child's social worker should prepare any social enquiry report which the court may request. If the case is dealt with by the court and a probation order made, this social worker may be the best person to supervise the order.

64. Where a young person who is being or has been looked after is committed to custody and children's services are actively involved, the key worker should contact the prison if he or she has concerns about the young person's vulnerability and if he or she wishes to be involved in planning for release.

## **Role of Voluntary Sector**

65. Some voluntary organisations are commissioned by local authorities to deliver aspects of their throughcare services for them, others deliver them independently. Such services are often viewed by young people positively as not being stigmatising in the way they feel social work services are. Voluntary organisations can play a particularly important role in the development of drop-in services, independent advocacy services, counselling services and advice and information services. They also provide specialist services targeted at groups of young people such as single or young parents and young people with disabilities.

66. Relevant voluntary organisations should be consulted in the development of children's service plans for throughcare and in any interagency throughcare arrangements that are developed.

## **Role of Housing Agencies**

67. Research shows that young people who have been looked after are over-represented among young homeless people. If they have physical or learning difficulties their vulnerability may be even greater. There may be a need to consider not only housing but also support from social work or housing to help them sustain any tenancies which they take on.<sup>2</sup>

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1 National Standards for Criminal Justice Social Work Services, Paragraphs 132 to 136

2 A helpful source of information is Homeless Young People in Scotland - the Role of the Social Work Services, J Bannister et al HMSO.

68. Housing departments of local authorities have the primary responsibility for assessing the housing needs of their areas and for drawing up plans to meet those needs either directly or through using their enabling powers. Liaison between social work departments and housing departments may be achieved through the establishment of formal arrangements and protocols and through designated senior officers as suggested in paragraph 23. When appropriate, social work should be involved in the assessment of housing needs, and vice versa for social work assessments, though the scale of this involvement will depend on the circumstances of each case. Housing departments should make clear what priority they can give to young people ceasing to be looked after and specifically to those with special needs. Young people recently looked after by local authorities who are homeless may well be in priority need under the homelessness legislation, and some will also be in priority need because of disabilities or for other reasons.

69. Scottish Homes are involved in local joint planning for community care and other initiatives. As landlords they can make housing available and through funding housing associations and private sector initiatives, increase the stock available for young people.

*Section 29(1)*

70. The statutory responsibility for tackling homelessness rests with local housing authorities who have a duty to provide accommodation for unintentionally homeless people in priority need. The Scottish Office is now considering comments on the draft of a new Code replacing the 1991 Code. It proposes to add to the statutory homelessness priority groups homeless young people aged under nineteen who were looked after by a local authority at the time they ceased to be of school age or later; thus matching local authorities' statutory duties under the 1995 Act to provide advice, guidance and assistance for this group. This proposal does not prevent other young people previously looked after being given priority under the homelessness legislation.

71. The housing department may provide supported housing, or specialist housing eg for those with physical disabilities; either from its own stock or through nomination arrangements with housing associations or Scottish Homes. It may also be able to advise on other possibilities, including the private rented sector or owner occupation if the young person has funds from an inheritance or other source.

72. In planning for the aftercare of young people local authorities should consider

- the ability of the young people to live self reliantly and address their own needs
- the extent to which some supervision may still be necessary and, if so, by whom
- the personal preferences of the young people
- arrangements for a private interview with a housing officer for any young person applying for assistance with accommodation
- the need to inform clearly any such young person of the address of the housing department as soon as possible
- how best to provide advice and assistance on housing
- the use of homecare/family aides in assisting young people

- the contribution which can be made by other housing agencies, including Scottish Homes, housing associations, voluntary organisations and supportive landlords in the private rental sector
- special facilities for homeless young people who may be sleeping rough.

73. In planning to meet the housing needs of young people housing and social work departments will also wish to consider

- the provision of some supported housing
- the provision of a reasonable quality and range of accommodation
- the provision, where necessary, of housing adapted to meet the needs of disabled young people
- the need for enhanced housing management services, for example, help with claiming benefits or settling disputes with neighbours
- a regular and simple system of rent collection
- a system to select and match the tenants of shared properties
- clear tenancy agreements
- training for housing personnel in the special needs of young people who have ceased to be looked after who may well be younger than most local authority tenants and less used to looking after themselves. Training for the staff of supported or halfway housing is particularly necessary.

### **Education, Training and Employment**

74. Social work departments and education departments should work together to ensure that young people who are looked after achieve their maximum potential within the education system. Young people moving into adulthood are often hampered by a lack of formal academic qualifications. Good links between social workers and schools guidance staff and senior schools staff will allow young people's progress and attainments to be monitored and encouraged.

75. Disruption to a young person's schooling should be minimised. Where appropriate young people should be encouraged to stay in education beyond the minimum school leaving age and support should be given to enable a young person to develop his or her abilities to the full.

76. A young person will receive careers education and guidance at school. Schools should provide advice on employment and training opportunities to young people who are looked after.

77. Continuing education, training and employment can help young people establish themselves as successful and competent adults. Too many young people who have been looked after underachieve at school and many do not move on to employment. Further education colleges in conjunction with local authorities can provide courses and training appropriate to the needs of young people moving to live independently.

### **Information for Young People**

78. Local authorities should produce information for young people who are no longer looked after by them. This could be in the form of a guide with information

about resources and services available to the young person from the local authority and elsewhere; practical information on benefits, training opportunities, leisure and recreation facilities; information concerning health matters, for instance registering with a GP, where to go for advice on contraception, availability of advice and counselling and drugs and alcohol services. The possibility of making information available in different formats should be considered eg written, audio, video, different languages.

79. Local authorities should provide information about financial assistance when a young person is setting up independently. It should cover assistance to meet expenses connected with education or training. Systems should be flexible in order to respond sensitively to variations in individual needs. Community Care Grants may be available to some young people from the Benefits Agency.

## *Regulations and Rules*



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STATUTORY INSTRUMENTS

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1996 No. 3262 (S. 252)

**CHILDREN AND YOUNG PERSONS**

**The Arrangements to Look After Children  
(Scotland) Regulations 1996**

<i>Made</i>	<i>20th December 1996</i>
<i>Laid before Parliament</i>	<i>31st December 1996</i>
<i>Coming into force</i>	<i>1st April 1997</i>

**ARRANGEMENT OF REGULATIONS**

1. Citation and commencement
2. Interpretation
3. Duty of local authority to make a care plan in respect of a child to be looked after or looked after by them
4. Considerations to which a local authority shall have regard in making a care plan for a child to be, or being, looked after by them
5. Considerations to which a local authority shall have regard in making a care plan for a child to be, or being, looked after by them, where the local authority are considering placing the child
6. Matters to be covered in care plan
7. Notification by local authority on placement of a child
8. Review of children's cases
9. Time when case is to be reviewed
10. Recording review information
11. Establishment of records
12. Retention and confidentiality of records
13. Health requirements
14. Notification of occurrences involving the child
15. Death of a child
16. Arrangements for child to be cared for by parents
17. Application of Regulations to short-term placements
18. Monitoring of placement
19. Termination of placement

The Secretary of State, in exercise of the powers conferred on him by sections 17, 31 and 103(2) of the Children (Scotland) Act 1995(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

### Citation and commencement

1. These Regulations may be cited as the Arrangements to Look After Children (Scotland) Regulations 1996 and shall come into force on 1st April 1997.

### Interpretation

2. (1) In these Regulations, unless the context otherwise requires—
  - “the Act” means the Children (Scotland) Act 1995;
  - “the 1980 Act” means the Education (Scotland) Act 1980(a);
  - “children’s hearing” has the meaning given to that term by section 93(1) of the Act;
  - “foster” means arrange for a child to live as a member of the family of a person who is not a parent, does not have parental responsibilities in respect of the child and who is not a relevant person in relation to the child and who undertakes to look after the child other than in accordance with the Adoption Agencies (Scotland) Regulations 1996(b);
  - “health board” means a health board constituted under section 2 of the National Health Service (Scotland) Act 1978(c);
  - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(d);
  - “looked after” has in respect of a local authority the meaning given to that term by section 17(6) of the Act;
  - “parent” has the meaning given to that term by section 15(1) of the Act and also includes any person who is not a parent of the child but who has parental responsibilities in respect of him;
  - “parental responsibilities” has the meaning given to that term by section 1(3) of the Act;
  - “placement” means, subject to regulation 17, the provision of accommodation by a local authority for a child looked after by them by any of the means specified in section 26 of the Act;
  - “Principal Reporter” has the meaning given to that term by section 93(1) of the Act;
  - “relevant person” has the meaning given to that term by section 93(2)(b) of the Act;
  - “so far as is reasonably practicable” means in regulations 3(1), 3(2)(a), 6(2) or (4), 7(3)(a) and 13(1) (notwithstanding the use of the word “before” in those provisions) so far as is reasonably practicable before a local authority look after or, as the case may be, place a child, failing which as soon as is reasonably practicable thereafter;
- (2) In these Regulations—
  - (a) any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number; and
  - (b) any reference to a numbered Schedule is to the Schedule to these Regulations bearing that number.

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(a) 1980 c.44.

(b) S.I. 1996/3266.

(c) 1978 c.29; section 2 was amended by the NHS and Community Care Act 1990 (c. 19), section 28, Schedule 9, paragraph 19(1) and Schedule 10.

(d) 1994 c.39.

**Duty of local authority to make a care plan in respect of a child to be looked after or looked after by them**

3. (1) Before a child begins to be looked after by a local authority, the authority shall, so far as is reasonably practicable, make a care plan to address the immediate and longer-term needs of the child with a view to safeguarding and promoting his welfare.
- (2) In drawing up any care plan a local authority shall—
  - (a) in the case of any child to be placed, so far as is reasonably practicable before placing, obtain and record in writing the information relating to the child specified in Schedule 1;
  - (b) take into account all information available to them relevant to the performance of their duties under section 17(1) to (5) of the Act.

**Considerations to which a local authority shall have regard in making a care plan for a child to be, or being, looked after by them**

4. (1) This regulation applies where a local authority are making a care plan for a child to be, or being, looked after by them.
- (2) Where this regulation applies, the local authority in making a care plan shall have regard to—
  - (a) the nature of the service to be provided in the immediate and longer-term with particular regard to any information referred to in Schedule 1;
  - (b) alternative courses of action;
  - (c) whether the local authority should seek a change in the child's legal status;
  - (d) the arrangements which need to be made for the time when the child would or will no longer be looked after by the local authority;
  - (e) so far as practicable, the matters listed in section 17(4) of the Act; and
  - (f) any further matters relating to the child as appear to the authority to be relevant for the making of the care plan.

**Considerations to which a local authority shall have regard in making a care plan for a child to be, or being, looked after by them, where the local authority are considering placing the child**

5. (1) Without prejudice to regulation 4, this regulation applies where a local authority are making a care plan for a child to be, or being, looked after by the local authority and the local authority are considering placing the child.
- (2) When this regulation applies, in addition to any consideration referred to in regulation 4, the local authority in making a care plan shall have regard to—
  - (a) whether there is any need for changes in the contact arrangements in order to promote contact with the child's family and others;
  - (b) in the light of any information recorded which is specified in paragraph 9 of Schedule 1, the need to change existing health arrangements;
  - (c) in the light of any information recorded which is specified in paragraph 10 of Schedule 1, the means of achieving any educational need and the means of achieving continuity in the child's education;
  - (d) in the case of a placement in a residential establishment, whether, having regard to the establishment's statement of functions and objectives, that particular placement is appropriate for the child's needs.
- (3) Where this regulation applies and a local authority are considering fostering the child or placing him in a residential establishment, they shall, so far as is consistent with their duty under section 17 of the Act and having ascertained so far as practicable the views of the child having regard to his age and maturity, ensure that—

- (a) in the case of fostering, the person with whom the child is to be fostered is of the same religious persuasion as the child or, if that is not practicable, that the person undertakes that the child will be brought up in accordance with the child's religious persuasion; and
  - (b) in the case of a placement in a residential establishment, the child will be brought up in accordance with his religious persuasion (with the local authority having consulted the person in charge of the residential establishment).
- (4) Where paragraph (3) applies, and the local authority are making arrangements in relation to two or more children in the same family, the local authority shall, so far as is consistent with their duty under section 17 of the Act and having ascertained so far as practicable the views of each child having regard to his age and maturity, ensure that—
- (a) in the case of fostering, the children are fostered in the same home or, if that is not appropriate or practicable, in homes as near together as is appropriate or practicable; and
  - (b) in the case of a placement in a residential establishment, the children are placed in the same residential establishment or, where that is not appropriate or practicable, that the placements facilitate as far as possible continued mutual contact and access.

### **Matters to be covered in a care plan**

6. (1) A care plan shall include, where applicable—
- (a) for each case of a child to be looked after by them, arrangements concerning the matters specified in Part I of Schedule 2; and
  - (b) in addition in each case where the authority intend placing or have placed the child, arrangements concerning the matters specified in Part II of Schedule 2.
- (2) In the case of a child described in section 25(7)(a) of the Act (child aged 16 or over agreeing to be provided with accommodation) the care plan shall so far as is reasonably practicable be agreed by the local authority with the child before a placement.
- (3) Paragraph (4) applies to any case of a child looked after by a local authority other than a case mentioned in paragraph (2), and subject to the terms of a supervision requirement, or an order made, or authorisation or warrant granted, by virtue of Chapter 2, 3 or 4 of Part II of the Act, in respect of the child.
- (4) The care plan shall, so far as is reasonably practicable, be agreed by the local authority with—
- (a) a parent of the child, or
  - (b) if there is no such person, the person ordinarily with charge of or control over the child,
- before the child is looked after.
- (5) All matters relating to a care plan shall be recorded in writing.

### **Notification by local authority on placement of a child**

7. (1) Subject to paragraphs (2), (3) and (4), where a local authority make a placement in accordance with these Regulations they shall as soon as is reasonably practicable give written notice of the placement and the relevant information about the placement to—
- (a) the local authority in whose area the person with whom the child is placed resides if that authority is different from the placing authority;
  - (b) the education authority in whose area the child is to reside, if the child is of compulsory school age within the meaning of section 31 of the Education (Scotland) Act 1980;
  - (c) the health board in whose area the child is to reside;

- (d) each parent or relevant person in relation to the child whose whereabouts are known except where—
    - (i) they have already received a written copy of the care plan made under regulation 3; or
    - (ii) the local authority consider, having regard to section 17 of the Act, that in the interests of the child such particulars should not be given to a particular person; or
    - (iii) a supervision requirement, order or warrant under Part II of the Act specifies that the place at which the child is to be kept shall not be disclosed to a particular person.
- (2) Where it is not intended that the placement shall last for more than 28 days, notification in terms of paragraph (1)(b) and (c) is not required unless—
- (a) in respect of notification in terms of paragraph (1)(b), the child has significant medical or educational needs; or
  - (b) in respect of notification in terms of paragraph (1)(c), the child has a problem of medical significance or the child is below compulsory school age within the meaning of the 1980 Act; or
  - (c) any such placement does last for more than 28 days.
- (3) Written notice shall be given—
- (a) where paragraph (2)(a) or (b) applies, so far as is reasonably practicable before placement;
  - (b) where paragraph (2)(c) applies, as soon as possible after the expiry of the 28 days referred to in that sub-paragraph.

### **Review of children's cases**

8. (1) Each local authority shall review in accordance with these Regulations the case of each child while he is being looked after by them.
- (2) In carrying out any review, a local authority shall—
- (a) consider the care plan made by virtue of regulations 3 and 6, and revise the care plan as appropriate; and
  - (b) in doing so, have regard to the considerations mentioned in regulations 4 and 5.

### **Time when case is to be reviewed**

9. (1) A local authority shall carry out the following reviews of the case of a child looked after and placed by the authority:-
- (a) a first review within 6 weeks from the date of such placement;
  - (b) a second review within 3 months from the date of the first review; and
  - (c) thereafter subsequent reviews within 6 months from the date of the previous review.
- (2) A local authority shall carry out the following reviews of the case of a child looked after but not placed by the authority:—
- (a) a first review within 3 months from the date on which the authority began to look after the child; and
  - (b) thereafter subsequent reviews within 6 months from the date of the previous review.
- (3) Notwithstanding paragraphs (1) and (2), a review shall be carried out prior to—
- (a) a decision by the local authority to refer the case of the child to the Principal Reporter under section 73(4) or (5) of the Act; and
  - (b) where practicable under any other circumstances when a children's hearing is convened under section 73 or 65(3) of the Act to consider the case of the child except in the case of a referral made to the Principal Reporter as mentioned in paragraph (a).

### **Recording review information**

10. Each local authority shall record in writing—
- (a) information obtained in respect of the review of a child's case,
  - (b) details of the proceedings at any meeting arranged by the authority at which the child's case is considered in connection with any aspect of the review of that case, and
  - (c) details of any decisions or arrangements made in the course of or as a result of the review.

### **Establishment of records**

11. (1) A local authority shall establish a written case record, if one is not already in existence, in respect of each child looked after by the authority.
- (2) The record shall include—
- (a) a copy of the care plan referred to in regulation 3 and any revised care plan referred to in regulation 8(2)(a);
  - (b) a copy of the information obtained under regulation 3(2)(a);
  - (c) a copy of any written report in their possession concerning the welfare of the child;
  - (d) a copy of any document considered or record established in the course of or as a result of a review of the child's case;
  - (e) details of any arrangements whereby another person acts on behalf of the local authority which placed the child.

### **Retention and confidentiality of records**

12. (1) A case record relating to a child who is placed by the local authority shall be retained by the authority until the seventy-fifth anniversary of the date of birth of the child to whom it relates or, if the child dies before attaining the age of 18 years, for a period of 25 years beginning with the date of his death.
- (2) The requirements of paragraph (1) may be complied with either by retaining the original written record, or a copy of it, or by keeping all of the information from such record in some other accessible form (such as by means of a computer).
- (3) A local authority shall secure the safe-keeping of such case records and shall take all necessary steps to ensure that information contained in them 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 records or information may be obtained or given;
  - (b) any court order under which access to such records or information may be obtained or given.

### **Health requirements**

13. (1) Subject to regulation 17(3), a local authority shall, so far as is reasonably practicable before placing a child looked after by them—
- (a) ensure that arrangements are made for the child to be examined by a registered medical practitioner; and
  - (b) obtain from the practitioner who has carried out the examination a written assessment of the state of health of the child and his need for health care,

unless the child has been so examined and such assessment has been made within a period of 3 months immediately preceding the date the child began to be looked after by them.

- (2) During the placement of the child the local authority shall ensure that arrangements are made for a child to be provided with health care services, including medical and dental care and treatment.

(3) Nothing in this regulation shall prejudice any capacity of a child enjoyed by virtue of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991(a) (capacity of child with sufficient understanding to consent to surgical, medical or dental procedure or treatment); and, without prejudice to that generality, where this provision requires an examination or treatment of a child and the child has the capacity mentioned in the said section 2(4), the examination or treatment shall be carried out only if the child consents.

### **Notification of occurrences involving the child**

14. (1) The local authority shall require the person with whom a child is placed to notify the authority forthwith if the child—
- (a) dies;
  - (b) suffers an illness or injury likely to result in death or serious disability; or
  - (c) without lawful authority absents himself or is taken away from the person's home.
- (2) On receiving notification under paragraph (1), the local authority shall, so far as is reasonably practicable, forthwith notify every person who has parental responsibility for him.

### **Death of a child**

15. (1) If a child who is being looked after by a local authority dies, the authority shall forthwith—
- (a) notify the Secretary of State;
  - (b) subject to paragraph (2) and so far as is reasonably practicable, notify every parent of the child.
- (2) The local authority shall not be required to notify under paragraph (1)(b) any parent with whom the child was residing at the time of his death.

### **Arrangements for child to be cared for by parents**

16. (1) A local authority looking after a child may, subject to paragraph (2), make arrangements for the child to be cared for by his own parents or by a person who is not a parent of his but who has parental responsibility for him.
- (2) A local authority may not make arrangements under paragraph (1) where the authority are providing accommodation for the child by virtue of section 25 of the Act.
- (3) Any arrangements by a local authority under paragraph (1)—
- (a) shall be subject to the terms of a supervision requirement made, or an order made, or authorisation or warrant granted, by virtue of Chapter 2, 3 or 4 of Part II of the Act in respect of the child; and
  - (b) shall not return the child to the care of a parent of the child, where the child was by virtue of any order, authorisation or warrant removed from the care of such parent.

### **Application of Regulations to short-term placements**

17. (1) Subject to paragraph (3), this regulation applies to a series of planned short-term placements where the following conditions are satisfied:—
- (a) all the placements occur within a period which does not exceed one year;
  - (b) no single placement is for a duration of more than 4 weeks; and
  - (c) the total duration of the placements does not exceed 120 days.
- (2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purpose of these Regulations, except that for the purposes of regulation 9(1) the local authority shall carry out the first review of the placement

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(a)1991 c.50.

within 3 months from the date on which the placement was first made and thereafter at intervals of not more than 6 months from the date of the previous review.

(3) An examination of the type referred to in regulation 13(1) shall be required only at the beginning of the period of a series of placements when the series is planned and, notwithstanding paragraph (1)(a), such a series may last for more than one year.

### **Monitoring of placement**

18. A local authority in relation to any placement—

(a) shall ensure that the child and, if fostered, the person with whom he is fostered is or, as the case may be, are visited on their behalf—

- (i) within one week of the placement being made;
- (ii) thereafter at intervals of not more than 3 months from the date of the last visit;
- (iii) on such other occasions as the local authority consider necessary or appropriate in order to safeguard or promote the child's welfare and, if he is fostered, to give support and assistance to the person caring for him;
- (iv) where reasonably requested to do so by the child or any foster carer.

(b) shall ensure that written reports are produced reporting on visits made in accordance with paragraph (a) and that these are considered by the local authority in any review of the child's case.

### **Termination of placement**

19. (1) Where for any reason it appears to the local authority that it is no longer in a child's best interests to remain in a placement the local authority shall make arrangements to terminate the placement as soon as is practicable in the interests of the child.

(2) Where a placement is terminated in accordance with paragraph (1), the local authority shall forthwith give written notice of their decision and of the date on which the placement was terminated to any authority or person who received notice of the placement in accordance with regulation 7.

*James Douglas-Hamilton*  
Minister of State,  
Scottish Office

St Andrew's House,  
Edinburgh  
20th December 1996

**SCHEDULE 1**

**Regulation 3(2)(a)**

**INFORMATION RELATING TO THE CHILD**

1. Name, sex, date and place of birth and present address of the child, his parents and any relevant person.
2. Nationality, race, religion and language.
3. Physical description.
4. Present legal status of the child, including any statutory responsibility the local authority have for the child.
5. Why consideration is to be given to the child being looked after by the local authority.
6. Previous history of involvement of the child with any local authority or other relevant organisation.
7. Details of any brothers and sisters, including dates of birth, addresses, including any details in respect of their being looked after by the local authority.
8. The extent of contact with members of the child's family and any other significant person who does not live in the same household as the child.
9. The child's health history, current state of health and development and existing arrangements for his medical and dental care.
10. The child's education history and current arrangements for provision of education.
11. Personality and social development.
12. Interests and recreational activities.

## SCHEDULE 2

## Regulation 6(1)

### PART I

#### **MATTERS TO BE ADDRESSED IN THE CARE PLAN TO BE MADE AND REVIEWED FOR A CHILD BEING LOOKED AFTER BY A LOCAL AUTHORITY**

1. The local authority's immediate and longer-term plans for the child.
2. Details of any services to be provided to meet the care, education and health needs of the child.
3. The respective responsibilities of the local authority and—
  - (a) the child;
  - (b) any person with parental responsibility for the child; and
  - (c) any other relevant person.

### PART II

#### **MATTERS TO BE ADDRESSED IN THE CARE PLAN TO BE MADE AND REVIEWED FOR A CHILD PLACED BY A LOCAL AUTHORITY**

4. The type of accommodation to be provided and its address together with the name of any person who will be responsible for the child at that accommodation on behalf of the local authority.
5. The contribution the child's parents or any other person will make to the child's day-to-day care.
6. The arrangements for involving those persons and the child in decision-making.
7. The arrangements for contact between the child and any of the categories of persons mentioned in section 17(3)(b) to (d) of the Act and, if appropriate, the reasons why contact with such a person would not be reasonably practicable or would be inconsistent with the child's welfare.
8. The expected duration of arrangements and the steps which should be taken in bringing the arrangements to an end including arrangements for rehabilitation of the child with his parents or other suitable person.

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision with respect to the duties of local authorities for children who are looked after.

Regulation 3 provides that a local authority will make a care plan for each child looked after by them. Regulations 4 and 5 deal with the considerations to which a local authority must have regard in making a care plan and regulation 6 concerns the matters to be covered in a care plan.

Minimum requirements are specified regarding notifications of placements and incidents, reviews, records, health assessment, and monitoring (regulations 7-15, 18 and 19).

The Regulations also make provision for a looked after child to be cared for by his own parents in certain circumstances (regulation 16). Regulation 17 sets out minimum requirements for planned short term placements.

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 STATUTORY INSTRUMENTS
 

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1996 No. 3263 (S. 253)

**SOCIAL WORK, SCOTLAND  
CHILDREN AND YOUNG PERSONS**
**The Fostering of Children  
(Scotland) Regulations 1996**

<i>Made</i>	<i>20th December 1996</i>
<i>Laid before Parliament</i>	<i>31st December 1996</i>
<i>Coming into force</i>	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 5(2), (3) and (4) of the Social Work (Scotland) Act 1968(a), and of all other powers enabling him in that behalf, hereby makes the following regulations:

**Citation and commencement**

1. These regulations may be cited as the Fostering of Children (Scotland) Regulations 1996 and shall come into operation on 1 April 1997.

**Interpretation**

2. (1) In these Regulations unless the context otherwise requires—
  - “the Act” means the Children (Scotland) Act 1995(b);
  - “foster” means arrange for a child to live as a member of the family of a person who is not a parent, does not have parental responsibilities in respect of the child and who is not a relevant person in relation to the child and who undertakes to look after the child other than in accordance with the Adoption Agencies (Scotland) Regulations 1996(c);
  - “derivative approval” means approval by one local authority of a person as a foster carer under regulation 7(3) where that person is currently approved as such by another local authority;
  - “foster carer” means a person approved by a local authority in accordance with regulation 7;
  - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(d);
  - “looked after” has in respect of a local authority the meaning given to that term by section 17(6) of the Act;
  - “Placement” means the provision of accommodation by a local authority for a child looked after by them by any of the means specified in section 26 of the Act;
  - “relevant person” has the meaning given to that term by section 93(2)(b) of the Act;
  - “supervision requirement” has the meaning given to that term by section 93(1) of the Act;
  - “voluntary organisation” has the meaning given to that term by section 93(1) of the Act.

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(a)1968 c.49; subsections (3) and (4) of section 5 were substituted by the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 15(4)(d).

(b)1995 c.36.

(c)S.I. 1996/3266.

(d)1994 c.39.

(2) In these Regulations—

- (a) any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number;
- (b) any reference to a numbered Schedule is to the Schedule to these Regulations bearing that number.

### **Application**

- 3. These Regulations apply where a local authority foster a child who is looked after by them under section 17(6) of the Act.

## **PART II**

### **APPROVAL OF FOSTER CARERS**

#### **Appointment and composition of fostering panels**

- 4. (1) Each local authority shall appoint a panel consisting of individuals for the purpose of considering and advising on the matters specified in regulation 6 and may appoint such additional panels as they consider necessary, and each such panel shall be known as a “fostering panel”.  
(2) A local authority shall appoint as a panel member a medical adviser who shall advise the fostering panel or panels.
- 5. A local authority shall satisfy themselves that the numbers, relevant qualifications and experience, of individual members of the fostering panel will enable it efficiently to discharge its functions under regulation 6.

#### **Functions of fostering panel**

- 6. (1) Subject to paragraphs (2) and (3), a fostering panel shall consider every person referred to it by the local authority as a prospective foster carer and shall make recommendations to the local authority as to whether such a person is suitable to be a foster carer and shall state whether the panel’s recommendation is in respect of—
  - (a) a particular child or children; or
  - (b) any child; or
  - (c) certain categories of child,to whom these Regulations apply.  
(2) In considering its recommendations the panel shall have regard to the duties imposed upon the local authority by section 17(1) of the Act (duty of local authority to child looked after by them) and shall consider all the information and reports to it and any other information which may be provided to it on request.  
(3) The local authority may request a fostering panel to consider and advise on any other matters relevant to the performance of their functions under the Act and these Regulations.

#### **Approval of foster carers by a local authority**

- 7. (1) Subject to paragraph (3) a local authority may approve any person as a foster carer where—
  - (a) the local authority have, so far as reasonably practicable, obtained the information or data set out in Schedule 1;
  - (b) the prospective foster carer has been interviewed by or on behalf of the local authority;

- (c) the local authority have conveyed to the fostering panel a report including the information or data gathered under sub-paragraph (a) together with such other - information and such comment as they think appropriate;
- (d) the local authority have considered a report from the fostering panel containing recommendations on the suitability of the prospective foster carer; and
- (e) the local authority are satisfied, having regard to the duty imposed on them by section 17(1) of the Act, that the prospective foster carer is a suitable person with whom to place a child or children.

(2) The local authority shall state whether their approval of any person as a foster carer is in respect of—

- (a) a particular child or children; or
- (b) any child; or
- (c) certain categories of child

to whom these Regulations apply.

(3) Notwithstanding paragraph (1) a local authority may approve any person as a foster carer where and for as long as that person is currently approved by another local authority in terms of paragraph (1), provided that the approval is limited to those categories of child in respect of whom the first local authority has approved the person and the second local authority advises the first local authority in writing of such derivative approval.

(4) A local authority shall notify in writing persons who have been approved as foster carers under this regulation.

#### **Agreements with foster carers**

8. A local authority which approve a foster carer under regulation 7 shall enter into a written agreement with the foster carer regarding the matters and obligations set out in Schedule 2 and such other matters as may be appropriate.

#### **Payment of allowances**

9. (1) A local authority may, subject to such conditions as they consider necessary, pay such allowance, if any, as they see fit to a foster carer with whom a child is placed under these Regulations.

(2) Any allowance payable by virtue of paragraph (1) may be—

- (a) a fixed allowance applicable in the case of all children for whom the local authority have responsibility by virtue of these Regulations;
- (b) a rate applicable to certain categories or circumstances of case;
- (c) amounts relevant to the individual needs of a particular child;

and may take into account the needs and circumstances of the foster carer with whom the child is placed.

#### **Reviews and Terminations of Approval**

10. (1) Where a foster carer has been approved under regulation 7 the local authority shall review, at intervals of not more than a year, whether the foster carer continues to be a suitable person with whom to place children.

(2) When undertaking a review under this regulation the local authority shall seek, and take into account, the views of the foster carer and of any local authority who have placed a child with the foster carer within the preceding year or who have an earlier placement with the foster carer which has not been terminated.

(3) Where on a review the local authority are no longer satisfied—

- (a) that the terms of the approval under regulation 7(2) are appropriate they shall revise the terms;

- (b) that the foster carer is suitable they shall terminate the approval from a date to be specified in the notice under paragraph (4).
- (4) At the conclusion of the review the local authority shall prepare a report and give notice in writing to the foster carer of their decision (including any revision of the terms of the approval under regulation 7(2)).
- (5) Where a foster carer notifies the local authority that he no longer wishes to act as a foster carer, or where the authority are otherwise satisfied that this is the case, the authority shall terminate the approval from a date to be specified by notice in writing to the foster carer.
- (6) A copy of any notice given under paragraph (4) or (5) shall be sent to any other local authority who known to them currently approve the foster carer under regulation 7.
- (7) Where a local authority have been notified under regulation 7(3) by another authority of that authority's derivative approval, and the local authority have in terms of paragraph (3) revised or terminated their approval, they shall notify the other local authority of their decision at the same time as notifying the foster carer under paragraph (4).
- (8) Any local authority currently giving derivative approval to a foster carer, as soon as any notice is received under paragraph (7) shall amend or terminate their approval in accordance with any revision or termination of the first approving authority and shall forthwith notify the foster carer of this revision or termination with the date of the revision or termination to be specified in the notice and to conform as near as practicable with the date specified in the first local authority's notice under paragraph (4).

### **PART III**

#### **PLACEMENT**

##### **Local authorities fostering a child looked after by them under section 17(6) of the Act**

- 11. Regulations 11 to 14 apply where a local authority foster a child looked after by them under section 17(6) of the Act other than when the child is looked after under section 17(6)(b) of the Act.

##### **Decision to place a child in a foster placement**

- 12. (1) A local authority shall not place the child unless they are satisfied that—
  - (a) subject to regulation 14, the person with whom it is proposed to place the child has been approved by the local authority as a foster carer in accordance with regulation 7; and
  - (b) they have satisfied themselves that placement of the child with the particular foster carer is in the child's best interests.
- (2) A local authority shall not place a child under this Part of the Regulations—
  - (a) unless the foster carer has entered into a written agreement with the authority in terms of regulation 8, which covers the matters specified in Schedule 2; and
  - (b) except in a case of an emergency or immediate placement under regulations 13 or 14 as the case may be, the foster carer enters into a written agreement with the authority covering the matters specified in Schedule 3.
- (3) Where a local authority make arrangements to place a child under this regulation or regulations 13 and 14 outside Scotland, they shall ensure as far as reasonably practicable that arrangements and requirements are complied with outside Scotland as would apply if the child were placed in Scotland.

(4) In making arrangements under this Part of the Regulations the local authority shall not foster a child with a person except where the household of the person comprises—

- (a) a man and a woman living and acting jointly together; or
- (b) a man or a woman living and acting alone,

provided that a person shall not be disqualified by virtue of this regulation where the household also comprises other relatives of the person who are not themselves concerned in the undertaking to care for the child.

(5) Where the person with whom the child is fostered dies or ceases to live in the household paragraph (4) shall not apply to require removal of the child from that household provided that the local authority satisfy themselves that the child should be fostered with another member or other members of the same household.

### **Emergency and Immediate Placements**

13. (1) Subject to paragraph (2) where arrangements have been made for the placement of a child in an emergency, a local authority may for a period not exceeding 72 hours place them with any person approved under regulation 7.

(2) Before an emergency placement is made pursuant to paragraph (1) the authority shall—

- (a) satisfy themselves that a foster placement is the most suitable way of meeting the child's needs; and
- (b) obtain a written agreement from the person with whom the child is to be placed that that person will carry out the duties specified in regulation 14(2).

(3) Where a local authority place a child under this regulation or regulation 14, they shall provide the person with whom the child is placed with the following:-

- (a) relevant information about the child's background, health and emotional development; and
- (b) any other information which the local authority consider relevant to the placement.

14. (1) Where a local authority are satisfied that the immediate placement of a child is necessary they may for a period not exceeding six weeks place the child with a person who has not been approved under regulation 7 provided, after interviewing the person, inspecting the accommodation and obtaining information about the person and other persons living in his household, the authority are also satisfied that—

- (a) the person is a relative or friend of the child;
- (b) the person has made a written agreement with the local authority to carry out the duties specified in paragraph (2); and
- (c) the provisions of regulation 13(2)(a) are satisfied.

(2) The duties referred to in regulation 13(2)(b) and paragraph (1)(b) of this regulation are—

- (a) to care for the child as if he were a member of that person's family and in a safe and appropriate manner;
- (b) to permit any person authorised by the local authority to visit the child at any reasonable time;
- (c) where a placement is terminated to allow the child to be removed at any time by the local authority;
- (d) to ensure that any information which the person may acquire relating to the child, or to his family or any other person, which has been given to him in confidence in connection with the placement is kept confidential and is not disclosed except to, or with the agreement of, the local authority; and
- (e) to allow contact with the child in accordance with section 17(1)(c) of the Act, with any contact order (as defined in section 11(1) and (2)(d) of the Act), and with any arrangements made or agreed by the local authority.

### **Recommendations by a local authority**

15. (1) Subject to paragraph (2) where a local authority submit a report on a child to a children's hearing under section 56(7) of the Act they may recommend that the child be placed in a place where he is to be under the charge or control of a person who is not a relevant person only if—
- (a) they have carried out the procedure provided for in regulation 12; or
  - (b) they have carried out the procedure provided for in regulation 13(2) or 14(1) and are satisfied that a supervision requirement with a condition naming that person's home as the place where the child is to be fostered would be in the child's best interests.
- (2) In the case of the provision in relation to procedure under regulation 14(1) referred to in paragraph (1)(b), for the purposes of paragraph (1)(b) the words "for a period not exceeding six weeks" shall be removed.

## **PART IV**

### **ARRANGEMENTS WITH VOLUNTARY ORGANISATIONS**

16. (1) Local authorities may individually or jointly enter into arrangements with one or more voluntary organisations in relation to children looked after by the local authorities under Parts II and III of these Regulations for the voluntary organisations to discharge on their behalf their duties in relation to fostering under those Parts of these Regulations.
- (2) authorities shall not make arrangements under this regulation unless—
- (a) they are satisfied—
    - (i) as to the capacity of the voluntary organisations to discharge duties on their behalf; and
    - (ii) that those arrangements are the most suitable way for those duties to be discharged; and
  - (b) they enter into a written agreement with the voluntary organisations about the arrangements, providing for consultation and for exchange of information and reports between the authority and the voluntary organisations.
- (3) A voluntary organisation may not place a child outside the British Islands(a).
- (4) Local authorities shall review any arrangements made under paragraph (1), and any agreement under paragraph (2)(b), at intervals of not more than 12 months.

### **Circumstances necessitating visits by local authorities**

17. (1) Every local authority shall arrange for one of their officers to visit every child who is accommodated with a foster carer on their behalf by a voluntary organisation in any of the following circumstances and within the periods specified—
- (a) where the voluntary organisation which made the placement with the foster carer make representations to the local authority that there are circumstances relating to the child which require a visit, within 14 days of the receipt of the representations;
  - (b) where the local authority are informed that the welfare of the child may not be being safeguarded or promoted, as soon as reasonably practicable but in any event within 7 days of being informed.

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(a) "British Islands" are defined in the Interpretation Act 1978 (c.30) as meaning the United Kingdom, the Channel Islands and the Isle of Man.

**PART V**  
**RECORDS**

**Case records for foster carers and others with whom a child is placed**

18. (1) A local authority shall compile (if one is not already established) and maintain a record for each foster carer whom they have approved under regulation 7 and for each person, not being a foster carer, with whom a child is placed by them.
- (2) Each record compiled under paragraph (1) shall include copies of each of the documents specified in paragraph (3) and the information specified in paragraph (4).
- (3) The documents referred to in paragraph (2) are as the case may be—
- (a) any notice of approval under regulation 7(4);
  - (b) any agreement under regulation 8;
  - (c) any report of review of approval under regulation 10(4);
  - (d) any notice of variation or termination of approval under regulation 10(4) or (5) or (8);
  - (e) any agreement specified in regulation 13(2)(b) or 14(1)(b).
- (4) The information referred to in paragraph (2) is as the case may be—
- (a) a record of each placement with the foster carer or person, not being a foster carer, with whom a child is placed including the name, age and sex of each child placed, the dates on which each placement began and terminated and the circumstances of the termination;
  - (b) the information obtained by the local authority in relation to the approval of the foster carer and in relation to any review or termination of the approval.
- (5) A local authority are to compile a record for each prospective foster carer who is not approved as a foster carer, the record to include a copy of the information, as to the prospective foster carer and his household and family, obtained by the authority in connection with the question of approval.

**Retention and confidentiality of records**

19. (1) The record for a foster carer or other person compiled under regulation 18, is to be retained for at least 10 years from the date on which his approval is terminated, or until his death if earlier.
- (2) The requirements of paragraph (1) may be complied with either by retaining the original written record (or a copy of it) or by keeping all the information from the record in some other accessible form (such as by means of a computer).
- (3) The local authority responsible for the maintenance of any record under regulation 18 are to secure its safe keeping and to take all necessary steps to ensure that the information which it contains is treated as confidential subject only to—
- (a) any provision in under or by virtue of a statute under which access to such record or information may be obtained or should be granted;
  - (b) any court order under which access to such record or information may be obtained or given.

*James Douglas-Hamilton*  
Minister of State,  
Scottish Office

St Andrew's House,  
Edinburgh  
20th December 1996

## SCHEDULE 1

## Regulation 7(1)(a)

### INFORMATION AS TO PROSPECTIVE FOSTER CARER AND OTHER MEMBERS OF HIS HOUSEHOLD AND FAMILY

1. His date of birth, health (supported by a medical report), personality and marital status (including any previous marriage).
2. Particulars of the other adult members of the household and their relationship to the prospective foster carer.
3. Particulars of the children in his family, whether or not members of his household, and any other children in his household.
4. Address and particulars of his accommodation.
5. His religious persuasion, the degree of his religious observance and his capacity to care for a child from any particular religious persuasion.
6. His racial origin, cultural and linguistic background and his capacity to care for a child of any particular origin or cultural and linguistic background.
7. His past and present employment or occupation, and his standard of living.
8. Leisure activities and interests.
9. His present capacity to care for his own and other children and previous experience of caring for his own and other children and his ability in this respect.
10. Any previous criminal convictions and those of other members of his household (subject to the Rehabilitation of Offenders Act 1974(a)).
11. The outcome of any request or application made by him or any other member of his household to foster or adopt children or for registration under section 71 of the Children Act 1989(b) or any previous amendment of that section.
12. Particulars of any previous approval under regulation 7, or refusal of approval or termination of such approval, relating to him or any other member of his household.
13. An analysis of the applicant's motivation in wanting to be a foster carer.
14. References from third parties as to the applicant's character and suitability to be foster carer.

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(a)1974 c.53.

(b)1989 c.41.

## SCHEDULE 2

## Regulation 8

### MATTERS AND OBLIGATIONS IN FOSTER CARER AGREEMENTS

1. The support and training to be given to the foster carer.
2. The procedure for the review of approval of a foster carer.
3. The procedure for handling of complaints against foster carers.
4. The procedure in connection with the placement of children, and in particular—
  - (a) the matters to be covered in foster placement agreements and the respective obligations, under any such agreements, of the local authority and the foster carer;
  - (b) the financial arrangements which are to exist between the local authority and the foster carer, including any special financial arrangements in relation to particular categories of children who may be placed with the foster carer;
  - (c) the local authority's arrangements for meeting any legal liabilities of the foster carer arising by reason of a placement; and
  - (d) the procedure available to foster carers who wish to make representations to the local authority which placed the child.
5. The foster carer's obligation to give written notice to the local authority forthwith, with full particulars, of—
  - (a) any intended change of his address;
  - (b) any change in the composition of his household, any other change in his personal circumstances and any other event affecting either his capacity to care for any child placed or the suitability of his household and any criminal convictions arising between approval and subsequent reviews; and
  - (c) any further request or application of a kind mentioned in paragraph 11 of Schedule 1.
6. The foster carer's obligation not to administer corporal punishment to any child placed with him.
7. The foster carer's obligation to ensure that any information relating to a child placed with him, to the child's family or to any other person, which has been given to him in confidence in connection with a placement is kept confidential and is not disclosed to any person without the consent of the local authority.
8. The foster carer's obligation to comply with the terms of any foster placement agreement, to care for the child placed with the foster carer as if he was a member of that person's family and in a safe and appropriate manner and to promote his welfare having regard to the local authority's immediate and longer-term arrangements for the child.
9. The foster carer's obligation to notify the local authority immediately of any serious illness of the child or of any other serious occurrence affecting the child.
10. The foster carer's obligation where the placement is terminated, to allow the child to be removed from the foster carer's home by the local authority.

**SCHEDULE 3****Regulation 12****MATTERS AND OBLIGATIONS TO BE COVERED IN FOSTER PLACEMENT AGREEMENTS**

1. The provision by the local authority of a statement containing all information which the local authority consider necessary to enable the foster carer to care for the child and, in particular, information as to—
  - (a) the local authority's care plan for the child and the objectives of the placement;
  - (b) the details of any supervision requirement or court order in relation to the child;
  - (c) the child's personal history, religious persuasion, cultural and linguistic background and racial origin;
  - (d) the child's state of health and need for health care and surveillance and the name of the child's doctor during the foster placement; and
  - (e) the child's educational needs

including a requirement for the statement to be provided either at the time of the signing of the agreement or, where this is not practicable, within the following 14 days.

2. The local authority's arrangements for the financial support of the child during placement.
3. Any arrangements for delegation of parental responsibility for consent to the medical or dental examination or treatment of the child, or consent to the child's engaging in any activity either actively or otherwise.
4. The circumstances in which it is necessary to obtain in advance the approval of the local authority for the child to live, even temporarily, away from the foster carer's home or for someone else temporarily to take care of the child.
5. The arrangements for visits to the child, in connection with the supervision of the placement, by the person authorised by or on behalf of the local authority and the frequency of visits and reviews.
6. The arrangements for the child to have contact with his parents and other persons, including any arrangements in pursuance of section 17(1)(c) of the Act (parental contact with children being looked after by a local authority) or any contact (within the meaning of section 11(1) and (2)(d) of the Act with any other person), or any contact required by a children's hearing in terms of section 70(5)(b) of the Act.
7. Compliance by the foster carer with the terms of the agreement set out in Schedule 2.
8. Co-operation by the foster carer with any arrangements made by the local authority.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations apply where a local authority foster a child who is looked after by them under the Children (Scotland) Act 1995. They supersede the Boarding Out and Fostering of Children (Scotland) Regulations 1985 (S.I. 1985/1799).

These Regulations make provision for the establishment of fostering panels and specify the functions of such panels (regulations 4-6). They prescribe the procedures to be followed by local authorities in approving persons as foster carers (regulations 7-10) and the procedures to be followed in making arrangements to foster children (regulations 12-14). The main change to the Regulations is that provision is made for local authorities collectively to enter into agreements with voluntary organisations to discharge general fostering arrangements on their behalf (regulation 16).

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 STATUTORY INSTRUMENTS
 

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1996 No. 3256 (S. 246)

**RESIDENTIAL AND OTHER ESTABLISHMENTS,  
SCOTLAND**
**The Residential Establishments - Child Care  
(Scotland) Regulations 1996**

<i>Made</i>	<i>20th December 1996</i>
<i>Laid before Parliament</i>	<i>31st December 1996</i>
<i>Coming into force</i>	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 5(2) and 60(1) of the Social Work (Scotland) Act 1968(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART I****GENERAL****Citation and commencement**

1. These Regulations may be cited as the Residential Establishments - Child Care (Scotland) Regulations 1996 and shall come into force on 1 April 1997.

**Interpretation**

2. (1) In these Regulations, unless the context otherwise requires—
  - “the Act” means the Social Work (Scotland) Act 1968;
  - “the 1995 Act” means the Children (Scotland) Act 1995(b);
  - “children’s hearing” has the meaning given to that term by section 93(1) of the 1995 Act;
  - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(c);
  - “looked after” has in respect of a local authority the meaning given to that term by section 17(6) of the 1995 Act;
  - “managers” means—
    - (a) in the case of a local authority, those officers having delegated powers under section 56 of the Local Government (Scotland) Act 1973(d) for the management of the residential establishment.
    - (b) in any other case, those who are responsible for management of the residential establishment;

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(a) 1968 c.49; section 5(2) was amended by the Adoption (Scotland) Act 1978 (c.28), Schedule 3, paragraph 9, the Children Act 1989 (c.41), Schedule 13, paragraph 19, and the National Health Service and Community Care Act 1990 (C.19), s.51; section 60(1) was amended by the National Health Service (Scotland) Act 1978 (c.24), Schedule 16, paragraph 29(1) and the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 8(3).

(b) 1995 c.36.

(c) 1994 c.39.

(d) 1973 c.65; section 56 was amended by the Local Government and Planning (Scotland) Act 1982 (c.43), section 32; the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), section 28; the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 35; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 92; and the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 22.

“person in charge” means the person in charge of a residential establishment who is responsible to the managers of the residential establishment;

“parent” has the meaning given to that term by section 15(1) of the 1995 Act and includes any person who is not a parent of the child but who has parental responsibilities in respect of him;

“parental responsibilities” has the meaning given to that term by section 1(3) of the 1995 Act;

“placement” means the provision of accommodation by a local authority for a child looked after by them by any of the means specified in section 26 of the 1995 Act;

“registering authority” means the local authority with which the person carrying on any residential establishment is registered or is required to be registered for the purposes of section 62 of the Act;

“residential establishment” has the meaning given to that term by section 93(1) of the 1995 Act;

“voluntary organisation” has the meaning given to that term by section 93(1) of the 1995 Act.

(2) In these Regulations any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

## PART II

### GENERAL PROVISIONS APPLYING TO CONDUCT OF RESIDENTIAL ESTABLISHMENTS

#### General

3. This Part of these Regulations shall apply to any residential establishment which provides residential accommodation for children and—
  - (a) is controlled or managed by a local authority; or
  - (b) is one in respect of which a person is required to be registered under section 61 of the Act(a); or
  - (c) is a school which is registered voluntarily in accordance with section 61A of the Act(b).
4. The managers of any residential establishment to which these Regulations apply shall ensure that the welfare of the child placed and kept in such accommodation is safeguarded and promoted and that the child receives such provision for his development and control as is conducive to his best interests.

#### Statement of functions and objectives

5. (1) Subject to the provisions of this Part of the Regulations the managers of a residential establishment which provides residential accommodation for children shall, in consultation with the person in charge, prepare within 6 months of these Regulations coming into force a statement of functions and objectives for that establishment which shall include the particulars specified in the Schedule to these regulations.  
  
(2) The managers referred to in paragraph (1) shall keep under review the preparation of and implementation of the said statement of functions and objectives and for that purpose they—

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(a)Section 61 was amended by section 1 of the Registered Establishments (Scotland) Act 1987 (c.40) and by section 34 of the Children (Scotland) Act 1995.

(b)Section 61A was inserted by section 2 of the Registered Establishments (Scotland) Act 1987, and substituted by section 34(3) of the Children (Scotland) Act 1995.

- (a) shall ensure that the person in charge reports in writing to them at intervals of not more than 12 months on the implementation of the statement of functions and objectives for that establishment; and
  - (b) shall make arrangements to ensure that each residential establishment they provide is visited on their behalf at intervals of not more than 6 months to furnish them with a report on the implementation of the statement of functions and objectives for each establishment.
- (3) Without prejudice to the arrangements made under paragraph (2)(b), the managers may make arrangements for each residential establishment they provide to be visited at such other times as they consider necessary by a person authorised for that purpose.
- (4) Where the managers consider it necessary or appropriate, they shall in consultation with the person in charge make such amendments to the statement of functions and objectives prepared in accordance with paragraph (1) as they consider appropriate.
- (5) The managers shall arrange for the statement of functions and objectives for any residential establishment they provide to be made available, on request, to any local authority or children's hearing considering the placing of a child in such an establishment.

#### **Number of children who may be accommodated**

6. Subject to section 62(5) of the Act(a) the managers shall, as they consider appropriate, determine the total number of children who may normally be resident in each residential establishment they provide.

#### **Appointment of person in charge**

7. (1) Where a residential establishment is not provided by a local authority, the managers shall appoint a person to be in charge of the establishment and shall in writing—
- (a) delegate such duties under these Regulations or otherwise to the person in charge as the managers may determine;
  - (b) specify the persons who will have charge of the establishment in the absence of the person in charge.
- (2) Where a residential establishment is provided by a local authority, the person in charge shall be an officer appointed by the local authority.

#### **Appointment and vetting of staff in residential establishments**

8. The managers of a residential establishment shall have in place appropriate procedures to be followed in the vetting of staff in relation to their suitability to work in the establishment both prior to their appointment and regularly thereafter—

#### **Precautions against fire and accident**

9. (1) The managers shall, in consultation with the fire authority for the area in which any residential establishment they provide is situated, ensure that adequate precautions are taken against fire and shall review such precautions at suitable intervals having regard to any recommendations they may receive at any time from the fire authority.
- (2) The managers shall make arrangements to ensure that by means of drills and practices the staff of residential establishments provided by them and, as far as practicable, children resident there are adequately trained and instructed in procedures to be followed in the event of fire.
- (3) The managers shall ensure that adequate precautions are taken against the occurrence of other forms of accident in a residential establishment and that the staff and, as far as practicable, children resident there are acquainted with such precautions.

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(a)Section 62(5) was substituted by section 3 of the Registered Establishments (Scotland) Act 1987.

### **Sanctions**

10. (1) Arrangements for sanctions, relevant to the control of children resident in a residential establishment, shall be determined by the managers in accordance with the statement of functions and objectives formulated under regulation 5(1).
- (2) The arrangements shall not authorise the giving of corporal punishment and corporal punishment shall for this purpose have the same meaning as in section 48A of the Education (Scotland) Act 1980(a).

### **Provision of education**

11. (1) The managers of each residential establishment shall ensure, in consultation with the appropriate education authority, that each child of school age accommodated in the establishment, and not meanwhile receiving education at a school or other place outwith the establishment, receives adequate and efficient education.
- (2) In making provision for education under paragraph (1), the managers shall have regard to—
- (a) the requirements of sections 1 (duty of education authorities to secure provision of education) and 30 (duty of parents to provide education for their children) of the Education (Scotland) Act 1980;
  - (b) the number of children normally resident in the establishment in respect of whom education may require to be provided, either within the establishment or, where that is not appropriate or is not provided, at a school;
  - (c) the age, ability, aptitude and progress of each child.
- (3) For the purposes of paragraph (2)(b) in deciding where a child might best receive education the managers, in consultation with the appropriate education authority, shall have regard to the period for which the child is normally expected to be resident within the establishment.
- (4) Any arrangements made under paragraph (1) for the provision of education within the establishment shall include accommodation for teaching purposes together with other requisite facilities and the employment, or arrangement for the services, of an adequate and appropriately qualified teaching staff.
- (5) In this regulation the expression “school age” has the meaning assigned to it by section 31 of the Education (Scotland) Act 1980.

### **Log book or books**

12. The managers shall ensure in consultation with the person in charge that there is maintained for each residential establishment a log book or books of day-to-day events of importance or of an official nature, including, without prejudice to this generality and to the inclusion of such information in personal records maintained under regulation 13, details of sanctions imposed.

### **Personal records**

13. The managers in consultation with the person in charge shall ensure that all necessary records, including where necessary health particulars, are maintained in respect of each child resident in a residential establishment.

### **Religious instruction**

14. The managers of a residential establishment shall, so far as is practicable and having regard to the child’s wishes and feelings, arrange that every child resident in the establishment is able to attend such religious services and to receive such religious instruction as may be appropriate to the child’s religious persuasion.

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(a) 1980 c.44; section 48A was inserted by the Education (No.2) Act 1986 (c.61), section 48, and subsequently amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), Schedule 10, paragraph 8, and the Education Act 1993 (c.35), section 294.

### **Health and medical care**

15. The managers shall ensure that arrangements are made—
- (a) within the residential establishment for the maintenance of conditions conducive to good health among the children resident there including the maintenance of satisfactory conditions of hygiene; and
  - (b) where appropriate, in consultation with the relevant local authority responsible for the child's welfare, for such medical and dental treatment to be available as may be required for each child.

### **Monitoring of registered establishments**

16. Where the registering authority have issued a certificate of registration in accordance with section 62(3) of the Act, they shall satisfy themselves by visits—
- (a) at intervals of not more than 1 year, that the operation of the residential establishment continues to conform to the requirements for registration and in doing so shall have regard to the statement of functions and objectives prepared in accordance with regulation 5; and
  - (b) otherwise as they consider necessary or appropriate, that the safety and welfare of children resident within the establishment are being maintained.

## **PART III**

### **MISCELLANEOUS PROVISIONS APPLICABLE TO ALL PLACEMENTS IN A RESIDENTIAL ESTABLISHMENT**

#### **Information to be supplied to persons in respect of each child placed in a residential establishment**

17. Where a local authority places in a residential establishment a child who is looked after by them, the local authority—
- (a) shall provide the person in charge with the following:-
    - (i) written information about the child's background, health, and mental and emotional development; and
    - (ii) any other information which the local authority considers relevant to the placement including information about the child's wishes and feelings about the placement, so far as this is appropriate having regard to his age and maturity;
  - (b) shall agree with the person in charge arrangements for ensuring that the welfare of the child placed and kept in such accommodation is safeguarded and promoted and that the child receives such provision for his development and control as is conducive to his best interests including—
    - (i) the arrangements that are to be made for contact between the child and his family;
    - (ii) the arrangements that are to be made for ensuring that the child receives adequate and efficient education (having regard to regulation 11) and appropriate medical and dental treatment.

*James Douglas-Hamilton*  
Minister of State,  
Scottish Office

St Andrew's House,  
Edinburgh  
18th December 1996

**SCHEDULE****Regulation 5(1)****MATTERS TO BE INCLUDED IN A STATEMENT OF FUNCTIONS AND OBJECTIVES**

1. Arrangements to meet the needs and development potential of all children resident in the establishment, including the child's emotional, spiritual, intellectual and physical needs and which give due regard to the child's religious persuasion, cultural and linguistic background and racial origin.
2. Arrangements for the education of children resident in the establishment including—
  - (a) where education is provided in the establishment, the standard and range of educational provision; or
  - (b) where education is not provided in the establishment, the arrangements made with the relevant education authority for such provision.
3. For the purposes of regulation 9, the measures which will be taken to safeguard the physical safety of children resident in the establishment.
4. The sanctions and other arrangements relating to the control of children as provided for in regulations 4 and 10.
5. Arrangements for the residential establishment—
  - (a) in cooperation with the relevant local authority, to assist each child in developing his potential while resident in the establishment and after leaving;
  - (b) for taking into account the needs and wishes of each child so placed, and those of the parents, and for the child's rights and responsibilities to be defined with due regard to his age and maturity; and
  - (c) for formulating procedures in cooperation with the relevant local authority in each case to deal with complaints from children resident in the establishment, or their parents or other relatives.
6. Arrangements for record keeping in accordance with regulation 13 including—
  - (a) procedures for the selection of children to be admitted to the establishment;
  - (b) details of arrangements for admissions and discharges from the establishment;
  - (c) procedures for access to records for staff, children and parents; and
  - (d) records regarding any involvement of children and parents in relation to decisions taken about the child's welfare while resident in the establishment.
7. Arrangements for contact and visits by relatives and friends of children resident in the establishment.
8. The establishment's policy on the involvement of children and parents in decisions about the child's future while resident in the establishment.
9. Policy and practice in regard to the recruitment and training of appropriately qualified staff to ensure that the objectives of the residential establishment are achieved, having regard also to the range of services which will be provided including social work, health and, where relevant, education.
10. Arrangements for health care and its promotion within the residential establishment in the establishment in accordance with regulation 15.
11. Details of all fire practices and fire alarm tests carried out in the residential establishment.
12. Arrangements for consulting children and staff in preparing and reviewing the statement of aims and objectives.
13. Procedures for dealing with complaints and grievances of staff and children and the arrangements by which children and young people have access on a personal basis on matters of concern to an allocated responsible person.
14. Statement covering the general ethos and philosophy of the establishment and how this is reflected in its policies and practices.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision with respect to residential establishments in which a child who is looked after by a local authority under the Children (Scotland) Act 1995 may be placed. They supersede the Social Work (Residential Establishments - Child Care) (Scotland) Regulations 1987 (S.I. 1987/2233).

Part II of the Regulations deals with the conduct of residential establishments and requires them to be conducted in a way which is conducive to the best interests of the children resident in them (regulation 4). Each establishment is required to prepare a statement of functions and objectives setting out the responsibilities of managers (regulation 5 and the Schedule). Minimum requirements are specified regarding fire precautions, sanctions, log books, records, education and health care (regulations 9-15).

Part III of the Regulations prescribes the information to be supplied to persons in respect of each child placed in a residential establishment.

Two main changes are made to the Regulations. Some of the regulations from the Social Work (Residential Establishments - Child Care) (Scotland) Regulations 1987 have been removed to the Arrangements to Look After Children (Scotland) Regulations 1996 (S.I. 1996/3262) which deal with matters relating to the nature, review and termination of placement of such children. A new regulation has been introduced which places a specific duty on managers of residential establishments to have in place procedures for the appointment and vetting of staff (regulation 8).

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STATUTORY INSTRUMENTS

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1996 No. 3255 (S. 245)

CHILDREN AND YOUNG PERSONS  
RESIDENTIAL AND OTHER ESTABLISHMENTS, SCOTLAND

The Secure Accommodation (Scotland) Regulations 1996

<i>Made</i>	<i>18th December 1996</i>
<i>Laid before Parliament</i>	<i>31st December 1996</i>
<i>Coming into force</i>	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 60(1) of the Social Work (Scotland) Act 1968(a), section 75 of the Children (Scotland) Act 1995(b), and section 44(5) of the Criminal Procedure (Scotland) Act 1995(c), and of all other powers enabling him in that behalf, and after consulting the Council on Tribunals, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Secure Accommodation (Scotland) Regulations 1996 and shall come into force on 1st April 1997.

**Interpretation**

2. (1) In these Regulations, unless the context otherwise requires—  
“the Act” means the Children (Scotland) Act 1995;  
“the 1968 Act” means the Social Work (Scotland) Act 1968;  
“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995;  
“the 1996 Regulations” means the Residential Establishments-Child Care (Scotland) Regulations 1996(d);  
“the appropriate local authority” has the meaning given to that term in section 44(11) of the 1995 Act;  
“children’s hearing” has the meaning given to that term by section 93(1) of the Act;  
“day” includes a part of a day;  
“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(e);  
“managers” means—
  - (a) in the case of a local authority, those officers having delegated powers under section 56 of the Local Government (Scotland) Act 1973(f) for the management of the residential establishment providing secure accommodation;
  - (b) in any other case those who are responsible for management of the residential establishment providing secure accommodation;

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(a)1968 c.49; section 60(1) was amended by section 8(3) of the Health and Social Services and Social Security Adjudications Act 1983 (c.41).

(b)1995 c.36.

(c)1995 c.46.

(d)S.I. 1996/3256

(e)1994 c.39; section 2 was amended by the Environment Act 1995 (c.25), Schedule 22, paragraph 232.

(f)1973 c.65; section 56 was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 32, the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), section 28, the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 35, the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 92, and the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 22.

“parent” has the meaning given to that term by section 15(1) of the Act and also includes any person who is not a parent of the child but who has parental responsibilities;

“person in charge” means the person in charge of a residential establishment providing secure accommodation who is responsible to the managers of that establishment;

“Principal Reporter” has the meaning given to that term by section 93(1) of the Act;

“relevant person” has the meaning given to that term by the meaning in section 93(2)(b) of the Act;

“residential establishment” has the meaning given to that term by section 93(1) of the Act;

“secure accommodation” means accommodation provided in a residential establishment for the purpose of restricting the liberty of children;

“supervision requirement” has the meaning given to that term by section 93(1) of the Act.

(2) In the calculation of the periods of 48 hours and 72 hours mentioned in these Regulations, Sundays and public holidays shall be excluded.

(3) In these Regulations any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

#### **Approval by the Secretary of State of secure accommodation**

3. Accommodation shall not be provided and used in residential establishments as secure accommodation unless it has been approved by the Secretary of State, on such terms and conditions as he thinks fit, for such provision and use.

#### **Welfare of children in secure accommodation**

4. (1) Subject to paragraph (2), the managers in consultation with the person in charge shall ensure that the welfare of a child placed and kept in such accommodation is safeguarded and promoted and that the child receives such provision for his education, development and control as is conducive to his best interests.

(2) For the purposes of paragraph (1) the managers and person in charge shall comply with such requirements of Part II of the 1996 Regulations as apply to them and the establishments for which they are responsible.

#### **Maximum period in secure accommodation under the Act without authority**

5. Subject to the provisions of regulation 8 the maximum period during which a child may be kept under the Act or the 1995 Act in secure accommodation without the authority of a children’s hearing, or, as the case may be, of the sheriff, is an aggregate of 72 hours (whether or not consecutive) in any period of 28 consecutive days.

#### **Children subject to certain supervision requirements - interim placement**

6. (1) A child who is subject to a supervision requirement imposed under section 70 of the Act, but not subject to a condition imposed under subsection (9) of that section that he be liable to be placed and kept in secure accommodation, may not be placed in secure accommodation unless the chief social work officer of the local authority required to give effect to the supervision requirement and the person in charge are satisfied—
  - (a) that the criteria specified in paragraph (a) or (b) of section 70(10) of the Act are satisfied with respect to the child; and
  - (b) that it is in the child’s best interests that he be placed and kept in secure accommodation,

and the chief social work officer shall, in addition, satisfy himself, in relation to the placing of the child in the residential establishment providing the secure accommodation, that the placement in that establishment is appropriate to the child's needs having regard to its statement of functions and objectives.

(2) On a child being placed in secure accommodation under paragraph (1), the chief social work officer of the local authority shall—

- (a) forthwith in writing inform any relevant person in relation to the child and the Principal Reporter accordingly, and shall, in addition, so inform the child (in a manner appropriate to his age and understanding); and
- (b) forthwith, and in any event not later than 24 hours from the time of that placement (whether or not the child is still held in secure accommodation) refer the case to the Principal Reporter and inform him in writing of—
  - (i) the details of that placement and any subsequent placement or release;
  - (ii) the reasons why at the time of placement the chief social work officer and the person in charge were satisfied with respect to the matters referred to and mentioned in paragraph (1) of this regulation and the reasons why at the time of writing they continue to be so satisfied or otherwise; and
  - (iii) the views of the chief social work officer and the person in charge as to the need or otherwise for the child's detention in secure accommodation;

(3) On receipt by the Principal Reporter of the referral and information under paragraph (2)(b), he shall arrange for a review of the child's case by a children's hearing under section 73(8) of the Act which shall apply as if the reference to a transfer under section 72(2) of the Act included a reference to a placement under this regulation.

(4) The review of the child's case referred to in paragraph (3) shall take place no later than 72 hours from the time of the placement of the child in secure accommodation.

### **Children looked after by local authority under Part II of the Act - interim placement**

7. (1) A child who is being looked after by a local authority under chapters 1 or 4 of Part II of the Act may not be placed in secure accommodation unless the chief social work officer of the authority looking after the child and the person in charge are each satisfied with respect to the same matters as to which regulation 6(1) requires them to be satisfied and that the child may be in need of compulsory measures of supervision under Part II of the Act.

(2) On a child being placed in secure accommodation under paragraph (1), the chief social work officer of the local authority shall—

- (a) forthwith, in writing, inform any relevant person in relation to the child and the Principal Reporter accordingly;
- (b) forthwith and in any event not later than 24 hours from the time of that placement (whether or not the child is still held in secure accommodation) refer the child's case to the Principal Reporter and inform him in writing of—
  - (i) the details of that placement and any subsequent placement or release;
  - (ii) the reasons why at the time of placement the chief social work officer and the person in charge had cause to believe that the child may be in need of compulsory measures of supervision under Part II of the Act and the reasons why at the time of writing they still have such cause or otherwise;
  - (iii) the reasons why at the time of placement the chief social work officer and the person in charge were satisfied with respect to the matters referred to and mentioned in regulation 6(1) of these Regulations and the reasons why at the time of writing they continue to be so satisfied or otherwise; and
  - (iv) the views of the chief social work officer and the person in charge as to the need or otherwise for the child's detention in secure accommodation.

8. (1) On receipt by the Principal Reporter of the referral and information under regulation 7(2)(b) and within 72 hours of the time of the child's placement in secure accommodation under regulation 7, the Principal Reporter shall consider and proceed, subject to paragraphs (2), (3) and (4), with the child's case in accordance with section 56 of the Act.
- (2) Where the Principal Reporter decides under section 56(4) of the Act that a children's hearing does not require to be arranged—
- (a) he shall, within those 72 hours, inform the local authority accordingly and that authority shall thereupon arrange for the child's discharge (if not already discharged) forthwith from secure accommodation and for any relevant person (not already informed) to be informed of his discharge; and
  - (b) if he considers that the proper course is to refer the child's case to the local authority with a view to arrangements for advice, guidance and assistance under Chapter I of Part II of the Act (support for children and their families), he shall, within these 72 hours, inform the authority accordingly.
- (3) Subject to paragraph (4), where under section 56(6) of the Act, it appears to the Principal Reporter that the child is in need of compulsory measures of supervision the Principal Reporter shall arrange for a children's hearing to consider the child's case within 72 hours of the time of the child's placement in secure accommodation under regulation 7, and section 56(6) and (7) shall have effect accordingly.
- (4) Notwithstanding the provisions of paragraph (3), the Principal Reporter shall have a further period of 24 hours in addition to the 72 hours referred to in paragraph (3), to fulfil his obligation thereunder if it is not reasonably practicable for him to arrange the hearing to convene within the 72 hours or for him within the 72 hours to state the grounds for referral.

### **Secure accommodation as a place of safety under the Act**

9. (1) In cases (other than those in which a children's hearing or court has previously authorised detention in secure accommodation as a condition of a warrant or order) where—
- (a) further to a warrant issued or continued by a children's hearing under section 45(4) or (5), 63(5), 66(1) or (5), 69(4) or (7) of the Act or an order or warrant issued by the sheriff under 67(1), 68(6) or 68(10) of the Act, a child is taken to and kept in a place of safety provided by a local authority; and
  - (b) subsequent to the issue of such a warrant or order the chief social work officer of the local authority and the person in charge are satisfied with respect to the same matters referred to in regulation 6(1),

the child may, subject to the following provisions of this regulation, be placed and kept in secure accommodation; and where the child is so placed, the Principal Reporter and any relevant person shall be informed in writing forthwith of this.

- (2) Where a child has been placed in secure accommodation in accordance with paragraph (1), the Principal Reporter shall—
- (a) where a warrant in respect of the child has been issued under sections 45(4) or 45(5) of the Act, arrange under section 65 of the Act a children's hearing to consider the child's case;
  - (b) where a warrant in respect of the child has been issued under sections 63(5) or 66(1) or 66(5) of the Act, arrange under section 66(5) of the Act a children's hearing to consider the child's case within 72 hours of the child being placed in secure accommodation;
  - (c) where a warrant in respect of the child has been issued under sections 69(4) or 69(7) of the Act, arrange under section 69(1) of the Act a children's hearing to consider the child's case within 72 hours of the child being placed in secure accommodation;

- (d) where an order in respect of the child has been granted under sections 68(6) or 68(10) of the Act, arrange under sections 66(1) (notwithstanding a warrant under section 68(6) having been issued previously) or 69(1) respectively of the Act a children's hearing to consider the child's case within 72 hours of the child being placed in secure accommodation; and
- (e) where a warrant has been issued in respect of the child under section 67(1) of the Act, apply within 72 hours of the child being placed in secure accommodation to the sheriff for a warrant under section 67(1) in respect of the child.

#### **Information provided to a children's hearing by a local authority in relation to the use of secure accommodation**

10. A local authority may submit a report in writing to the children's hearing recommending that a child be placed in a named residential establishment providing secure accommodation subject to a condition or order that he is liable to be kept in secure accommodation only if they are satisfied that the matters referred to in regulation 6(1)(a) and (b) are met.

#### **Review of supervision requirement**

11. (1) Where a children's hearing imposes or continues a condition under section 70(9) of the Act, either on the making of a supervision requirement under section 70(1) of the Act or the continuation of a supervision requirement under section 73(9)(e) of that Act, the Principal Reporter shall arrange a review of the supervision requirement under section 73(8) within 3 months of the condition under section 70(9) being made or continued.
- (2) A review held under regulation 12(1) shall be considered a review held for the purposes of paragraph (1).
12. (1) A child subject to a supervision requirement with a condition imposed under section 70(9) of the Act or any relevant person may, in writing, require the Principal Reporter to make arrangements under section 73 of the Act to have the supervision requirement reviewed by a children's hearing if in the preceding 6 weeks the child has not been placed in secure accommodation by virtue of that condition.
- (2) Where a notice is given to the Principal Reporter by a child or any relevant person under paragraph (1), the Principal Reporter shall arrange a children's hearing within 21 days of the receipt by him of the notice.

#### **Child detained under section 44 of Criminal Procedure (Scotland) Act 1995: use of secure accommodation**

13. (1) A child who is detained in residential accommodation provided by a local authority in accordance with an order under section 44 of the 1995 Act may be detained in secure accommodation only where the chief social work officer of the appropriate local authority and the person in charge of the residential establishment providing that secure accommodation are satisfied with respect to the same matters as to which regulation 6 requires them to be satisfied.
- (2) Where paragraph (1) applies, the child shall be placed and subject to regulation 15 kept in secure accommodation only at such time and for so long as the person in charge with the agreement of the chief social work officer considers necessary.

#### **Children otherwise dealt with under the Criminal Procedure (Scotland) Act 1995**

14. (1) Where a child—
- (a) is committed to a local authority under section 51(1)(a)(ii) or 51(4)(b) of the 1995 Act to be detained in a place of safety chosen by the authority, he may not, in pursuance thereof, be placed or detained in secure accommodation as a place of safety under the section;
  - (b) is to be kept in a place of safety under section 43 of the 1995 Act which is a residential establishment provided by a local authority, he may not, in pursuance thereof, be placed in secure accommodation provided in that establishment; or

(c) is to be detained under section 216(7) of the 1995 Act, in a place chosen by a local authority, he may not, in pursuance thereof, be placed in secure accommodation,

unless the chief social work officer of the authority and the person in charge are each satisfied with respect to the same matters as to which regulation 6 requires them to be satisfied in relation to the child.

(2) Where paragraph (1) applies, the child shall be placed and subject to regulation 15 kept in secure accommodation only at such time and for so long as the person in charge with the agreement of the chief social work officer considers necessary.

### **Review of the use of secure accommodation**

15. (1) The chief social work officer of the appropriate local authority, in consultation with the person in charge, shall ensure that, where a child is detained in secure accommodation by virtue of regulations 13 or 14, arrangements are made by them to review the case of such a child—

- (a) within 7 days of the child's placement in secure accommodation (whether or not the child is still held in secure accommodation);
- (b) at such times as appear to them necessary or appropriate in the light of the child's progress; and
- (c) in any event at intervals of not more than 3 months;

and the child shall be detained in secure accommodation only where, upon such review, the chief social work officer and the person in charge are satisfied that it is in the best interests of the child.

(2) In conducting such a review the chief social work officer and the person in charge shall have regard to all relevant circumstances including—

- (a) the matters specified at regulation 6(1); and
- (b) where practicable, the views of the child and the opinion of his parents.

(3) In conducting such a review the chief social work officer and the person in charge shall obtain the advice in relation to the detention of the child in secure accommodation of a secure placement review panel, which shall be set up by any local authority responsible for the management of a residential establishment providing secure accommodation (failing which the local authority in whose area the establishment is situated) and consist of at least 3 persons—

- (a) none of whom may be the chief social work officer or the person in charge; and
- (b) one of whom must be an independent person who is neither an office holder nor an employee of a local authority or the residential establishment.

(4) The chief social work officer and the person in charge shall provide the secure placement review panel with all the relevant facts of the child's case available to them in order that the secure placement review panel can give informed advice.

### **Records to be kept in respect of a child in secure accommodation**

16. (1) The managers, in consultation with the person in charge, shall ensure that a record is kept with respect to the child's placement in such accommodation, which shall include a record of—

- (a) the child's full name, sex, and date of birth;
- (b) the supervision requirement, order or other provision by reference to which the placement was made;
- (c) the date and time of his placement in secure accommodation, the reasons for this, the names of the persons authorising the placement, and the address at which the child was living before the placement;
- (d) the name and address of each person to whom notice was given by virtue of these Regulations of the child's placement;

- (e) reviews undertaken with respect to the placement by virtue of section 73 of the Act;
- (f) the date and time of his discharge, and his place of residence following discharge from secure accommodation, and the names of the persons authorising that discharge.

*James Douglas-Hamilton*  
Minister of State,  
Scottish Office

St Andrew's House,  
Edinburgh  
18th December 1996

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are concerned with the use of secure accommodation for any child who is being looked after by a local authority or for whom the local authority is responsible under Criminal Procedure legislation. They will replace the four sets of secure accommodation regulations which are extant.

The main changes introduced by these Regulations are a reduction of the maximum period during which a child may be kept in secure accommodation without the authority of a children's hearing or a sheriff from 7 days to 72 hours and a corresponding shorter period within which a children's hearing shall be convened to consider the child's case. They make provision for the establishment of a Secure Placement Review Panel by local authorities responsible for secure accommodation to review the case of any child detained in secure accommodation by local authorities by virtue of the Criminal Procedure (Scotland) Act 1995.

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STATUTORY INSTRUMENTS

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1996 No. 3261 (S. 251)

CHILDREN AND YOUNG PERSONS

Children's Hearings (Scotland) Rules 1996

<i>Made</i>	<i>18th December 1996</i>
<i>Laid before Parliament</i>	<i>31st December 1996</i>
<i>Coming into force</i>	<i>1st April 1997</i>

ARRANGEMENT OF RULES

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INTERPRETATION, ETC

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2. Interpretation.

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ARRANGEMENT AND CONSTITUTION OF CHILDREN'S HEARINGS

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5. Notification of children's hearing and provision of documents to chairman, members, relevant persons etc.
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7. Notification of children's hearing to relevant persons and certain parents with right to attend.
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27. Forms of warrants for finding and keeping a child in a place of safety.
28. Miscellaneous Forms.
29. Authentication of documents.
30. Service of notification and other documents.
31. Reports of proceedings of children's hearings.
32. Travelling and subsistence expenses.
33. Notification of 16th birthday of child subject to supervision requirement.

The Secretary of State, in exercise of the powers conferred on him by section 42(1) of the Children (Scotland) Act 1995(a), and of all other powers enabling him in that behalf, hereby makes the following Rules:

## PART I

### INTERPRETATION, ETC

#### Citation and commencement

1. These Rules may be cited as the Children's Hearings (Scotland) Rules 1996 and shall come into force on 1st April 1997.

#### Interpretation

2. (1) In these Rules, unless the context otherwise requires-
  - “the Act” means the Children (Scotland) Act 1995;
  - “the 1978 Act” means the Adoption (Scotland) Act 1978(a);
  - “the 1994 Act” means the Local Government etc. (Scotland) Act 1994(b);
  - “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(c);
  - “the 1996 Regulations” means the Secure Accommodation (Scotland) Regulations 1996(d);
  - “chairman” means the chairman of a children's hearing;
  - “child” has the meaning given to that term by section 93(2)(b) of the Act;
  - “child protection order” has the meaning given to that term by section 57 of the Act;
  - “children's hearing” means a children's hearing as defined in section 39(3) of the Act;
  - “day” means a period of twenty-four hours commencing at midnight;
  - “enactment” includes any order, regulation or other instrument made under the Act;
  - “local authority” means the local authority for the area of the children's hearing;
  - “relevant person” has the meaning given to that term by section 93(2)(b) of the Act;
  - “Principal Reporter” has the meaning given to that term by section 93(1) of the Act;
  - “representative” has the meaning given to that term by rule 11(3) below;
  - “safeguarder” means a person appointed by a children's hearing under section 41(1) of the Act for the purpose of safeguarding the interests of the child in the proceedings;
  - “Scottish Children's Reporter Administration” has the meaning given to that term by section 128 of the 1994 Act;
  - “secure accommodation” means accommodation provided in a residential establishment in accordance with the 1996 regulations for the purpose of restricting the liberty of children.
- (2) Unless the context otherwise requires, any reference in these Rules to:
  - (a) a numbered rule or Form shall be construed as a reference to the rule or Form bearing that number in these Rules; and any reference to a specified paragraph or sub-paragraph shall be construed as a reference to that paragraph or sub-paragraph in the rule in which that reference occurs; and
  - (b) a Form includes a Form substantially to the same effect as that set out in these Rules with such variation as circumstances may require.

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(a)1978 c.28.

(b)1994 c.39.

(c)1995 c.46.

(d)S.I. 1996/3255.

## PART II

### CONSTITUTION AND ARRANGEMENTS OF CHILDREN'S HEARINGS

#### Recording and transmission of information at beginning of case

3. (1) Where the Principal Reporter receives information from any source of a case which may require a children's hearing to be arranged, he shall keep a record of the name and address where available of the person from whom the information was received.  
(2) Where the Principal Reporter decides that no further action on the case is required as mentioned in subsection (4) of section 56 of the Act, or refers the case to the local authority under subsection (4)(b) of that section, or arranges a children's hearing under subsection (6) of that section, he shall—
  - (a) keep a record of that decision or, as the case may be, that course of action; and
  - (b) if the information was received from a local authority or an officer of a police force, give notice of that decision, or as the case may be, that course of action to that local authority or, the chief constable of that police force.

#### Business meeting preparatory to constitution of children's hearing

4. (1) Where the Principal Reporter arranges a children's hearing, he may, for the purpose of—
  - (a) determining any procedural matter specified in paragraph (2), and
  - (b) obtaining any direction or guidance in relation to the performance of his functions in relation to the proceedings,

arrange a meeting (in this rule referred to as a "business meeting") with members of the children's panel from which the children's hearing is to be constituted and with the provisions the same as in section 39(5) of the Act applying to the business meeting.

(2) A business meeting shall determine any of the following procedural matters as may be referred to the meeting by the Principal Reporter—

- (a) whether notice of the children's hearing is to be given by the Principal Reporter under rule 7 to a person as a "relevant person" in terms of paragraph (c) of the definition of that term in section 93(2)(b) of the Act (person who appears to be a person who ordinarily (and other than by reason only of his employment) has charge of, or control over, the child);
  - (b) where notice of the children's hearing has been or is to be given by the Principal Reporter to the child under rule 6, whether notice is also to be given that the child is released under section 45(2)(a) of the Act from the obligation to attend the hearing under subsection (1)(b) of that section; and
  - (c) where notice has been or is to be given by the Principal Reporter to a relevant person under rule 7, whether notice is also to be given that the hearing are satisfied under section 45(8)(b) of the Act that it would be unreasonable to require his attendance or that his attendance is unnecessary for the proper consideration of the case.
- (3) Where the Principal Reporter arranges a business meeting under paragraph (1), he shall, not later than 4 working days before the date of the meeting—
    - (a) give notice in writing to the members of the panel who will attend the meeting of the date, time and place of the meeting;
    - (b) give notice in writing to the child, any relevant person and any safeguarder that the meeting has been arranged and of the date on which it is to be held;
    - (c) give to the members of the panel and to the child, any relevant person and any safeguarder—

- (i) notice of the matters referred to the business meeting for determination or for direction and guidance;
  - (ii) a copy of any documents or information relevant to these matters; and
  - (iii) a copy of the grounds of referral of the case of the child prepared in terms of section 65 of the Act.
- (4) The Principal Reporter shall, when giving notice under paragraph (3), advise the child, any relevant person and any safeguarder—
- (a) of their entitlement to make their views on the matters to be considered by the business meeting known to the Principal Reporter, and
  - (b) that any such views shall be presented by him to the meeting.
- (5) The Principal Reporter shall record in writing any views given to him other than in writing under paragraph (4), for the purpose of presenting these views to the business meeting for consideration.
- (6) The Principal Reporter shall as soon as reasonably practicable after receiving any views give a copy of these views in writing to the members of the children's panel who will attend the business meeting and to the other persons who received notice of the meeting under paragraph (3).
- (7) Before making a determination, or giving guidance or directions to the Principal Reporter, the business meeting shall consider any views given to them under paragraph (6).
- (8) Where the business meeting has made a determination, or given guidance or directions to the Principal Reporter as to the exercise of his functions, the Principal Reporter shall as soon as reasonably practicable give notice in writing of the determination or, as the case may be, the guidance or direction, to the child, any relevant person and any safeguarder.

**Notification of children's hearings and provision of documents to chairman and members, relevant persons etc.**

5. (1) Subject to the 1996 Regulations, where the Principal Reporter arranges any children's hearing, he shall wherever practicable at least seven days before the date of the hearing notify the chairman and members of the time and place of the hearing and, subject as aforesaid, as soon as reasonably practicable but not later than three days before the date of the hearing, he shall give to each of them a copy of any of the following documents as are relevant to the case of a child to be considered at the hearing:-
- (a) a report of a local authority on the child and his social background;
  - (b) the statement of the grounds for the referral of the case to the children's hearing prepared under rule 18;
  - (c) any judicial remit or reference or any reference by a local authority;
  - (d) any supervision requirement to which the child is subject;
  - (e) any report prepared by any safeguarder appointed in the case;
  - (f) any views of the child given in writing to the Principal Reporter by virtue of rule 15(4).
- (2) If the Principal Reporter has obtained any information (including any views of the child given orally to the Principal Reporter by virtue of rule 15) or any document, other than a document mentioned in paragraph (1) which is material to the consideration of the case of a child at any children's hearing, he shall make that information or copies of that document available to the chairman and members of the children's hearing before the hearing.
- (3) Where the Principal Reporter gives a copy of any document to the chairman and members of the children's hearing under paragraph (1), or makes available to them information or any document or copy thereof under paragraph (2), he shall at the same

time give a copy of the document or, as the case may be, make available the information or a copy of the document, to-

- (a) each relevant person in relation to the child, whose case is to be considered at the children's hearing; and
- (b) any father of the child whose case is to be considered at the children's hearing who is living with the mother of the child where both the father and the mother are parents of the child as defined in section 15(1) of the Act,

except that where a children's hearing is arranged to continue consideration of the case of the child by virtue of section 69(2) of the Act, this obligation of the Principal Reporter shall apply only in respect of any information or document which has not already been made available to the person concerned.

(4) The chairman and members of children's hearings shall keep securely in their custody any documents made available to them under this rule and, except as otherwise provided in rules 20(4) and 22(4), they shall not cause or permit any information contained in the documents or otherwise disclosed during the hearing to be made known to any person.

(5) Immediately after the conclusion of a children's hearing the chairman and members shall return to the Principal Reporter any documents which have been made available to them under this rule.

(6) Any information or document which the Principal Reporter makes available under this rule to the chairman and members of any children's hearing shall also be made available, if requested, to any member of the Scottish Committee of the Council on Tribunals who is attending that hearing and the Council on Tribunals shall be required to return all papers to the Principal Reporter at the end of the hearing.

(7) Any information or document which the Principal Reporter makes available under this rule to the chairman and members of any children's hearing shall also be made available, if requested, to any member of the Children's Panel Advisory Committee or to any member of a sub-committee of the Advisory Committee who has given notice of his intention to attend that hearing as an observer. Any person provided with papers under this rule shall not cause or permit any information contained in the said documents or otherwise disclosed during the hearing to be made known to any person and shall return to the Principal Reporter at the end of the hearing any document which has been made available to him.

### **Notification of children's hearings to children**

6. (1) Subject to paragraphs (2) and (3), where the Principal Reporter arranges a children's hearing he shall not less than 7 days before the hearing give notice in writing to the child whose case has been referred to the hearing of his right and obligation to attend the hearing and of the date, time and place of the hearing.

(2) Where the Principal Reporter arranges a children's hearing—

- (a) to consider under section 45(7), 59(2), 68(10) or by virtue of section 82(5) of the Act the case of a child kept in a place of safety;
- (b) to consider under Chapters 2 or 3 of Part II of the Act the case of a child placed in secure accommodation under regulation 7 of the 1996 Regulations;
- (c) to review an application under section 51(9) of the Act for the suspension of a supervision requirement; or
- (d) to review the case of a child transferred under section 72 of the Act to a place of residence other than that named in the supervision requirement;

he shall as soon as reasonably practicable before the hearing give the notice required under paragraph (1) above in writing; provided that if such notice cannot be given in writing, the Principal Reporter may give notice to the child orally.

(3) Where under section 45(2) of the Act a children's hearing are satisfied either in a case as specified in 45(2) of the Act that the attendance of the child is not necessary or in

any case that it would be detrimental to the interests of the child for him to be present at the hearing of his case, the Principal Reporter shall give him notice in writing of his right under section 45(1) of the Act to attend the hearing and of the date, time and place of the hearing.

(4) When giving to a child under this rule notice of a children's hearing to which rule 15 applies, the Principal Reporter shall inform the child—

- (a) of the entitlement by virtue of section 16(2) of the Act and these Rules to indicate whether he wishes to express his views;
- (b) that if he does so wish, he will be given an opportunity to express them; and
- (c) that any such views as may be given by the child to the Principal Reporter before the time at which the children's hearing is to be held will be conveyed by the Principal Reporter to the members of the children's hearing, to any relevant person and to any safeguarder, for the purpose of the hearing.

### **Notification of children's hearing to relevant persons and certain parents with right to attend**

7. (1) Where a relevant person in relation to a child whose case is to be considered at a children's hearing, has a right to and is obliged under section 45(8) of the Act to attend at all stages of the hearing, the Principal Reporter shall give him notice in writing, if his whereabouts are known, of the right to and obligation to attend at all stages of the hearing and of the date, time and place of the hearing.

(2) Where under section 45(8) of the Act a children's hearing are satisfied either that it would be unreasonable to require the attendance of a relevant person at a children's hearing or that the attendance of that person would be unnecessary for the proper consideration of the case, the Principal Reporter shall give him notice in writing, if his whereabouts are known, of his right under section 45(8) of the Act to attend at all stages of the hearing and of the date, time and place of the hearing but that for the above reason or reasons he is not obliged to attend.

(3) Where a person has a right by virtue of rule 12(1) to attend at all stages of the children's hearing, the Principal Reporter shall give such notice in writing of his right, if his whereabouts are known.

(4) Any notice under this rule, except a notification to a relevant person of a children's hearing mentioned under rule 6(2), shall be given not later than seven days before the date of the children's hearing to which it relates.

(5) In the case of such a children's hearing mentioned in rule 6(2), the notice to the relevant person under paragraph (1) shall be given as soon as reasonably practicable in writing before the hearing, and if such notice cannot be given in writing the Principal Reporter may give notice to a relevant person orally.

### **Notification of children's hearing to chief social work officer**

8. Where the Principal Reporter arranges any children's hearing he shall notify the chief social work officer of the local authority for the area in which the children's hearing is to sit of the date, time and place of the hearing, and of the name, date of birth and address, so far as is known of the child whose case is to be considered.

### **Withholding of address where disclosure may result in serious harm**

9. Where in fulfilling his obligations under rules 5, 7 or 8 the Principal Reporter considers that the disclosure of the whereabouts of the child or any relevant person may place that person at risk of serious harm (whether or not physical harm) he may withhold such information as is necessary to prevent such disclosure and indicate the address of the person as that of the Principal Reporter.

### **Constitution of children's hearing and functions of chairman of children's hearing**

10. (1) The selection of the chairman and the members of any children's hearing from among the members of the children's panel for a local authority area shall be made either directly by the chairman of the children's panel, or in his absence by the deputy chairman, or by the operation of standing arrangements in that behalf made by the chairman of the children's panel after such consulting the Principal Reporter and such members of the panel as he may think fit. Such standing arrangements may provide for the selection of the chairman and members of any hearing to be made by members of the panel appointed for that purpose by the chairman of the panel.
- (2) The chairman of the children's panel shall keep under review any standing arrangements which he has made under paragraph (1) and shall from time to time consult the Principal Reporter and such members of the panel as he thinks fit as to the operation of those arrangements.
- (3) Except as otherwise provided by these Rules and any other enactment, the procedure at any children's hearing shall be such as the chairman shall in his discretion determine.
- (4) Without prejudice to the generality of paragraph (3) and to the power of a children's hearing under the Act to continue a hearing for the further investigation of a case, the chairman of a children's hearing may at any time during the hearing adjourn the hearing provided that any adjournment under this rule shall be such as to enable the children's hearing to sit again on the same day as the adjournment was made.
- (5) As soon as reasonably practicable after a children's hearing make—
- (a) a decision disposing of the case of a child on a referral or at a review of a supervision requirement or a condition imposed under section 70(9) of the Act with respect to residence in secure accommodation;
  - (b) a decision to issue a warrant to find a child or for the keeping of a child in a place of safety or to continue a warrant for the keeping of such a child;
  - (c) a requirement or warrant, or continuation of a warrant, under section 69 of the Act,

the chairman shall make or cause to be made a report of the decision and a statement in writing of the reasons for the decision, and shall sign the report and statement.

## **PART III**

### **GENERAL PROVISIONS AS TO CHILDREN'S HEARINGS**

#### **Representation for the purposes of assisting children and relevant persons at children's hearing**

11. (1) Any child whose case comes before a children's hearing and any relevant person who attends that children's hearing may each be accompanied by one person for the purpose of assisting the child, or as the case may be, the relevant person at the hearing.
- (2) Any representative attending any children's hearing may assist the person whom he represents in the discussion of the case of the child with the children's hearing.
- (3) In these Rules any reference to a representative is a reference to a person who under this rule assists a child or a relevant person or both, and includes, unless the context otherwise requires, a reference both to any representative of a child and any representative of a relevant person.

**General attendance at hearings of certain parents of the child (not relevant persons) and specific limited right of duly authorised officials etc.**

12. (1) A father of the child as described in rule 5(3)(b) shall be entitled to attend at all stages of the children's hearing while the hearing are considering the case of the child but shall be subject to the same provisions as those contained in section 46 of the Act as if those provisions apply to him.
- (2) A constable, prison officer or other person duly authorised who has in his lawful custody a person who has to attend a children's hearing shall be entitled to be present at the hearing for the purposes of escorting that person.

**Persons who may attend children's hearings at chairman's discretion**

13. Without prejudice to the right of a child and of a relevant person under rule 11 above to be accompanied at a children's hearing by a representative, and subject to subsections (1) to (3) of section 43 of the Act (provisions as to privacy of children's hearings), the persons whose presence at the children's hearing may be permitted by the chairman under the said subsection (1) shall be—
  - (a) the chairman and members of the Children's Panel Advisory Committee for the local authority area of the children's hearing and the clerk to the Children's Panel Advisory Committee of the local authority;
  - (b) any members or possible members of children's panels whose attendance is required at children's hearings for the purpose of their training as members of children's hearings, and their instructors;
  - (c) any student engaged in formal education or training in social work or any person engaged in research relating to children who may be in need of compulsory measures of supervision; and
  - (d) any other person whose presence at the hearing may in the opinion of the chairman be justified by special circumstances.

**Safeguarders**

14. (1) Where a children's hearing appoint a safeguarder under section 41(1) of the Act, the chairman shall state in writing the reasons for their decision to make that appointment.
- (2) The Principal Reporter shall give the safeguarder a copy of such statement and also give notice of the date, time and place of the hearing at the same time and in the same manner as giving notice to a relevant person under rule 7.
- (3) Any safeguarder appointed by a children's hearing shall be entitled to be present throughout the duration of any hearing of the case until the disposal of that case.
- (4) Where a safeguarder is appointed by a children's hearing, he shall—
  - (a) prepare a report in writing on the case of the child; and
  - (b) prepare any further report in writing on the case as the hearing may require,and give the report or, as the case may be, the further report to the Principal Reporter.
- (5) Any information or document which the Principal Reporter makes available in compliance with rule 5 (under exception of rule (5)(1)(e)) or otherwise to the chairman and members of any children's hearing shall also be made available to any safeguarder regardless of the date of his appointment in the proceedings.
- (6) A safeguarder—
  - (a) shall keep securely in his custody any documents made available to him under paragraph (4);
  - (b) shall not cause or permit any information contained in the documents or otherwise disclosed during the hearing to be made known to any person, other than may be necessary for the performance of his own duties; and

- (c) shall return to the Principal Reporter any document which has been made available to him under paragraph (4) above when he has completed the performance of all duties associated with his appointment.

### **Views of the child**

15. (1) The children's hearing, taking account of the age and maturity of the child whose case has been referred to the hearing for a purpose mentioned in paragraph (2) shall so far as practicable give the child an opportunity to indicate whether he wishes to express his views.
- (2) This rule shall apply where the children's hearing—
- (a) are considering whether to make, or are reviewing a supervision requirement;
  - (b) are considering whether to grant a warrant under subsections (4) or (5) of section 45, subsection (5) of section 63, subsection (1) of section 66, or subsection (4) or (7) of section 69, of the Act or to provide under subsection (5) of the said section 66 for the continuation of a warrant;
  - (c) are considering whether to continue a child protection order under section 59(4) of the Act;
  - (d) are engaged in providing advice under section 60(10) of the Act; or
  - (e) are considering whether to make a requirement under section 69(3) of the Act;
  - (f) are drawing up a report under section 73(13) of the Act; and
  - (g) are considering whether to issue a warrant under the 1996 Regulations.
- (3) Where he has indicated his wish to express his views—
- (a) the children's hearing and the chairman of the hearing may exercise any of their powers under the Act or these Rules as they or, as the case may be, he considers appropriate in order to ascertain the views of the child; and
  - (b) the children's hearing shall not make any decision or take any action mentioned in paragraph (2) unless an opportunity has been given for the views of the child to be obtained or heard and in terms of section 16(2)(c) of the Act they have had regard to such views as he may have expressed.
- (4) Without prejudice to the generality of the powers mentioned in paragraph (3)(a), the views of the child may be conveyed to the children's hearing—
- (a) by the child, or by his representative, individually or together in person;
  - (b) by the child in writing, on audio or video tape or through an interpreter; or
  - (c) by any safeguarder appointed by the hearing.
- (5) For the purposes of this rule, a child of twelve years of age or more shall be presumed to be of sufficient age and maturity to form a view.

## **PART IV**

### **CHILDREN'S HEARINGS ON REFERRAL AND AT REVIEW OF SUPERVISION REQUIREMENTS, ETC**

#### **Application of Part IV**

16. This Part shall, subject to the provisions thereof, apply to (a) any children's hearing arranged under Part 11 of the Act or under the 1996 Regulations either for the purposes of considering and determining on referral the case of any child or for the review of a supervision requirement or a condition imposed by section 70(9) of the Act with respect to residence in secure accommodation; and (b) any children's hearing to which a case is stood referred under section 49(4) of the 1995 Act.

### **Statement of grounds of referral**

17. (1) The statement of the grounds for the referral of a case to a children's hearing shall be signed by the Principal Reporter and shall specify which one or more of the conditions mentioned in section 52(2) of the Act is or are considered by the Principal Reporter to be satisfied with respect to the child, and the statement shall state the facts on the basis of which it is sought to show that any condition is satisfied.
- (2) In the case of a condition mentioned in section 52(2)(i) of the Act, the statement of the facts constituting the offence shall have the same degree of specification as is required by section 138(4) of the 1995 Act in a charge in a complaint and the statement shall also specify the nature of the offence in question.

### **Notification of statement of grounds for referral**

18. (1) Subject to paragraphs (2) and (3), where the Principal Reporter arranges a children's hearing under section 65(1) of the Act, he shall-
- (a) prepare a statement of the grounds for the referral of the case to the children's hearing; and
  - (b) not less than seven days before the date of the hearing give a copy of the statement to the child and to each relevant person whose whereabouts are known.
- (2) Notwithstanding paragraph (1), where before the children's hearing the child is kept in a safe place under the Act, or so kept by virtue of the 1996 Regulations, the provisions of paragraphs (1)(a) and (b) shall apply except that in paragraph (1)(b) the words "as soon as reasonably practicable" shall be substituted for the words "not less than seven days".
- (3) Notwithstanding paragraph (1), where the Principal Reporter arranges a children's hearing under section 65(2) of the Act, the provisions of paragraphs (1)(a) and (b) shall apply except that in paragraph (1)(b) the words "not less than three days" shall be substituted for the words "not less than seven days".
- (4) Notwithstanding that a children's hearing proceeds in accordance with section 65 of the Act to more than one hearing, nothing in this rule shall require a copy of the statement to be given to any person more than once.

### **Notification of application to sheriff for finding as to grounds if they consider it appropriate to do so for referral**

19. Where a children's hearing have given a direction to the Principal Reporter under section 65 of the Act to apply to the sheriff for a finding as to whether or not any grounds for the referral of any case to them are satisfied, the Principal Reporter shall give notice of this in writing to the child and to any relevant person.

### **Conduct of children's hearing considering case on referral or at review of supervision requirement**

20. (1) This rule applies to a children's hearing considering under section 65 of the Act a case on referral or at a review under section 73(8) of the Act of a supervision requirement.
- (2) Unless a children's hearing consider the case of a child in the absence of the child, any relevant person and any representative, the chairman shall, before the children's hearing proceeds to consider the case, explain the purpose of the hearing to such persons as are present.
- (3) In proceeding with the case the children's hearing shall—
- (a) consider a report of a local authority on the child and his social background, and any judicial remit or other relevant document and any relevant information available to them;
  - (b) consider any report submitted by the manager of any residential establishment in which the child is required to reside;

- (c) discuss the case with the child, any relevant person, any safeguarder and representative if attending the hearing;
  - (d) take steps under rule 15 to obtain the views of the child, and endeavour to obtain the views of any relevant person and of any safeguarder, if attending the hearing, on what arrangements would be in the best interests of the child.
- (4) The chairman shall inform the child and any relevant person of the substance of any reports, documents and information mentioned in paragraph (3)(a) and (b) if it appears to him that this is material to the manner in which the case of the child should be disposed of and that its disclosure would not be detrimental to the interests of the child.
- (5) After the children’s hearing have considered the case of the child and made a decision disposing of the case, but before the conclusion of the hearing at which the decision is made, the chairman shall inform the child, any relevant person, any safeguarder, and any representative, if attending the hearing, of—
- (a) the decision of the hearing;
  - (b) the reasons for the decision;
  - (c) the right of the child and of the relevant person under section 51(1) of the Act to appeal to the sheriff against the decision and, where the appeal is against a decision relating to a supervision requirement, to apply to the children’s hearing for suspension of the requirement appealed against.
- (6) The children’s hearing shall not dispose of the case by making a supervision requirement under section 70(1) of the Act requiring the child to reside at any place or places specified in the requirement (which for the purposes of this rule is a place or places where he is to be under the charge or control of a person who is not a relevant person) unless—
- (a) they have received and considered a report from the local authority for the purposes of paragraph (3)(a), together with recommendations from that authority on—
    - (i) the needs of a child;
    - (ii) the suitability to meet those needs of the place or places in which the child is to reside by virtue of the supervision requirement, and of the person or persons who is or are to have charge of or control over the child, and
  - (b) the local authority have confirmed to the hearing that in compiling the report they have carried out the procedures and gathered the information described in regulation 15 of the Fostering of Children (Scotland) Regulations 1996(a).

**Notification of decisions, etc on referral or at review of supervision requirement**

21. (1) Subject to sections 70(6) and 73(11) of the Act, as soon as reasonably practicable after a children’s hearing have made a decision disposing of the case of a child under this Part of the Rules, the Principal Reporter shall send to the child, any relevant person, any safeguarder and the local authority—
- (a) notice of the decision and a copy of any supervision requirement or, as the case may be, any continuation of a supervision requirement;
  - (b) a copy of the statement of reasons for the decision; and
  - (c) except in the case of a review which continues a supervision requirement, being a review in relation to which an order under section 51(7) of the Act is in force, notice of the right of the child or, as the case may be, a relevant person under section 51 of the Act to appeal to the sheriff against the decision,
- and such notice shall be given in writing.
- (2) Where a children’s hearing have made a decision disposing of the case of a child, the Principal Reporter shall as soon as reasonably practicable give notice of the decision—
- (a) to any person with whom the child is residing; and

- (b) where the information leading to the investigation of the case of the child was given by an officer of a police force, to the chief constable of the police area.
- (3) Where the decision was—
  - (a) to make a supervision requirement in relation to a child who has attained the age of 16 years; or
  - (b) to terminate a supervision requirement relating to such a child,

the Principal Reporter shall as soon as reasonably practicable give notice of the decision to the chief constable of the police area and if the child resides outwith the police area, to the chief constable of the police area in which the child resides.

## PART V

### REFERENCES FOR ADVICE AND SUSPENSION OF SUPERVISION REQUIREMENTS

#### **Conduct of children’s hearing on reference for advice by court, the local authority or approved adoption society**

22. (1) This rule shall apply to any children’s hearing arranged in order to consider the case of a child for the purpose of giving advice to the court, the local authority or the approved adoption society under any of the following provisions:—

section 73(13) of the Act (advice in relation to placing for adoption, application for adoption order, freeing for adoption order or parental responsibilities order);

subsection (1)(b) or (6) of section 49 of the 1995 Act (reference by court for advice in case of child not subject to supervision requirement);

section 49(3) of the 1995 Act (reference by court for advice in case of child subject to supervision requirement);

section 22A(2) of the 1978 Act (advice in relation to placing a child for adoption).

- (2) Unless the children’s hearing consider the case of a child in the absence of the child, a relevant person and any representative, the chairman shall, before the children’s hearing proceed to consider the case, explain the purpose of the hearing to such persons as are present.

- (3) The children’s hearing shall proceed to consider the case of the child and during such consideration shall—

(a) consider the reference by the court, the local authority or the approved adoption society, any supervision requirement to which the child is subject, a report of a local authority on the child and his social background, and any other relevant document or any relevant information available to them;

(b) discuss the case of the child and afford to the child, any relevant person, any safeguarder and any representative, if attending the hearing, an opportunity of participating in the discussion and of being heard on the case;

(c) take steps on rule 15 to obtain the views of the child, and endeavour to obtain the views of any relevant person, and of any safeguarder if attending the hearing, on what arrangements with respect to the child would be in the best interests of the child; and

the children’s hearing shall thereafter determine what advice they will give to the court, the local authority or, as the case may be, the approved adoption society.

- (4) The chairman shall inform the child and each relevant person whose whereabouts are known of the substance of any reports, documents and information mentioned in paragraph (3)(a) if it appears to him that this is material to the advice that will be given and that its disclosure would not be detrimental to the interests of the child.

(5) After the children's hearing have considered the case of the child and determined the advice they shall provide, the hearing shall inform the child, any relevant person, any safeguarder and any representative, if attending the hearing of that advice.

(6) As soon as reasonably practicable after the children's hearing determine the advice they shall provide, the chairman shall make or cause to be made a report in writing providing that advice, including a statement of the reasons for that advice, and the chairman of the hearing shall sign the report and statement.

(7) Within 7 days following a determination by the children's hearing, the Principal Reporter shall send a copy of the report prepared under paragraph (6) to the court, the local authority or the approved adoption society, as the case may be, and the child, any relevant person and any safeguarder appointed in the proceedings.

(8) Where the Principal Reporter is obliged under section 73(8)(a)(iv) of the Act to arrange a children's hearing and he is advised by the adoption agency that it has determined that agreement to an application under section 16 or 18 of the 1978 Act is unlikely to be forthcoming, he shall be under an obligation to arrange a hearing to sit within 21 days of that notification from the local authority under section 73(4)(c) of the Act.

### **Application for suspension of supervision requirements pending hearing of appeals**

23. (1) An application to a children's hearing by a child or relevant person under section 51(9) of the Act for the suspension of a supervision requirement pending an appeal under section 51(1) of the Act shall be made in writing to the Principal Reporter.

(2) The Principal Reporter shall give notice in writing separately to the child and relevant person of the date, time and place of the children's hearing at which the application will be considered.

(3) The children's hearing shall afford the applicant, and his representative, and any safeguarder if attending the hearing, an opportunity of being heard.

(4) The chairman of the children's hearing shall inform the applicant at the conclusion of the hearing of the decision of the hearing and the reasons for it.

(5) If the applicant fails to attend the hearing, the application shall be treated as abandoned.

(6) An application under this rule shall not be valid unless an appeal under section 51(1) of the Act has already been lodged.

## **PART VI**

### **MISCELLANEOUS AND SUPPLEMENTAL**

#### **Social background report where child in a place of safety**

24. Subject to the 1996 Regulations, where a children's hearing is arranged under section 65(2) of the Act, the children's hearing shall not proceed in relation to the case of the child in accordance with section 70(1) of the Act unless the Principal Reporter has made available to them a report of local authority on the child and his social background.

#### **Form of supervision requirement**

25. (1) Subject to paragraph (2) below, a supervision requirement under section 70(1) of the Act shall be in the form of Form 1.

(2) A supervision requirement under section 70(1) of the Act with a specification under section 70(9) of the Act (residence in secure accommodation) shall be in the form of Form 2.

(3) Subject to paragraph (4) below, a continuation under section 73(9)(e) of the Act of a supervision requirement (with any variation of the requirement or insertion in the requirement mentioned in paragraph (9)(c) and (d) of that subsection) shall be in the form of Form 3.

(4) A continuation under section 73(9)(e) of the Act of a supervision requirement (with a variation of the requirement or insertion in the requirement as mentioned in relation to a specification as to secure accommodation as described in section 70(9) of the Act) shall be in the form of Form 4.

**Procedure relating to warrants, orders, and to requirements under section 69(3) of the Act**

26. (1) Where a children’s hearing consider in relation to a child the question whether they should—

(a) issue or continue a warrant or order under any of the following provisions of the Act:-

section 45(4) and (5) (warrants to find child, keep in a place of safety and bring before a hearing);

section 59(4) (continuation of child protection order);

section 63(5) (warrant to keep child in place of safety following arrest);

section 66(1) and (5) (warrants where children’s hearing unable to dispose of case);

section 69(4) (warrant for fulfilment of requirement to attend or reside at clinic, hospital, etc); and

section 69(7) (warrant to take child to and keep in place of safety while case continued under section 59(4) of the Act).

(b) continue under section 59(4) of the Act any direction given under section 58 (direction as to parental responsibilities or parental rights when child protection order made); or

(c) issue a warrant under the 1996 Regulations;

(d) make a requirement under section 69(3) of the Act (requirement to reside at clinic, etc.),

the children’s hearing shall, before they make a decision to issue that warrant or as the case may be that requirement, take steps under rule 15 to obtain the views of the child, and endeavour to obtain the views of any relevant person and of any safeguarder, if attending the hearing, on what arrangements would be in the best interests of the child.

(2) Where a children’s hearing have issued or, as the case may be, continued such a warrant, order, discretion or requirement as is mentioned in paragraph (1), the Principal Reporter shall send as soon as reasonably practicable to the child, any relevant person and any safeguarder appointed in the proceedings—

(a) a copy of the warrant, continuation of the warrant, continuation of the order, or requirement and a copy of the statement of the reasons for the decision; and

(b) notice of the right of the child, or, as the case may be, the relevant person under section 51 of the Act to appeal to the sheriff against the decision.

**Forms of warrants and orders for finding and keeping a child in a place of safety**

27. The orders or warrants listed and described in the left hand column of the chart below shall be in the form of the Forms (as defined in rule 2(2)(b)) opposite in the right hand column which are in the Schedule to these Rules and references to sections shall be to sections in the Act. The description in the left hand column is for ease of reference and does not reproduce the provisions of the Act in full.

	LEFT HAND COLUMN	RIGHT HAND COLUMN
S45(4) & (5)	Warrant under section 45(4) or 45(5) to find a child, keep him in a place of safety and bring him before a children's hearing	Form 5
S59(4)	Continuation under section 59(4) of a child protection order	Form 6
	Continuation under section 59(4) of a child protection order with first authorisation to remove child and to keep child in place of safety with/without order of non-disclosure of place of safety	Form 7
S63(5)	Warrant under section 63(5) to keep a child in place of safety with/without order of non-disclosure of place of safety	Form 8
	Warrant under section 63(5) with order that child liable to be kept in secure accommodation with/without order of non-disclosure of place of safety	Form 9
	Continuation under section 63(5) of warrant to keep a child in place of safety	Form 10
	Continuation under section 63(5) of warrant to keep a child in a place of safety with first authorisation that child liable to be kept in secure accommodation with/without order of non-disclosure of place of safety	Form 11
S66(1)	Warrant under section 66(1) to keep a child in a place of safety when hearing unable to dispose of case	Form 12
	Warrant under 66(1) to keep a child in a place of safety when hearing unable to dispose of case with order that child liable to be kept in secure accommodation with/without order of non-disclosure of place of safety	Form 13
S66(5)	Continuation under section 66(5) of warrant granted under section 66(1) to keep a child in a place of safety	Form 14
	Continuation under section 66(5) of warrant granted under section 66(1) to keep a child in a place of safety with first order that child liable to be kept in secure accommodation with/without order of non-disclosure of place of safety	Form 15
S69(4)	Warrant under section 69(4) to find a child and remove to a place of safety when requirement under section 69(3) not fulfilled (where continuation of case)	Form 16
	Warrant under section 69(4) to find a child and remove to place of safety when requirement under section 69(3) not fulfilled with first order that child liable to be kept in secure accommodation with/without order of non-disclosure of place of safety (where continuation of case)	Form 17
S69(7)	Warrant under section 69(7) to keep a child in a place of safety (where continuation of case)	Form 18
	Warrant under section 69(7) to keep a child in a place of safety when there is a continuation of the case by the children's hearing with order to keep child in secure accommodation with/without order of non-disclosure of place of safety (where continuation of case)	Form 19

### **Miscellaneous Forms**

28. (1) A requirement under section 69(3) of the Act shall be in the form of Form 20.
- (2) A notification by a Principal Reporter under section 60(3) of the Act shall be in the form of Form 21.
- (3) A notification by a Principal Reporter under section 60(5) of the Act shall be in the form of Form 22.
- (4) A report of a children's hearing of advice under section 60(10) of the Act shall be in the form of Form 23.
- (5) A report of a children's hearing order section 73(13) of the Act shall be in the form of Form 24.

### **Authentication of documents**

29. (1) A report of any decision, a statement of reasons for a decision or of advice, a warrant or continuation of warrants for finding and keeping a child in a place of safety, or any other writing, authorised or required by Chapter 2 or 3 of the Act or these Rules to be made, given, issued or granted by a children's hearing or by the chairman of a children's hearing shall be sufficiently authenticated if it is signed by the chairman, or, if he is unavailable, by a member of that hearing.
- (2) Any document authorised or required by these Rules to be made or executed by the Principal Reporter shall be sufficiently authenticated if it is signed by the Principal Reporter or by a person duly authorised by him.
- (3) Any copy of any document authorised or required by these Rules to be given or issued by the Principal Reporter may be certified as a true copy by the Principal Reporter or by a person duly authorised by him.

### **Service of notification and other documents**

30. (1) Any notice in writing or other document and any oral notification authorised or required under these Rules to be given or issued by the Principal Reporter may be given or issued by the Principal Reporter or by a person duly authorised by him or by any constable.
- (2) Any notice in writing or other document authorised or required by these Rules to be given or issued to a child or to a relevant person may be—
- (a) delivered to him in person; or
  - (b) left for him at his dwellinghouse or place of business or where he has no known dwellinghouse or place of business, at any other place in which he may at the time be resident; or
  - (c) where he is the master of, or a seaman or other person employed in, a vessel, left with a person on board thereof and connected therewith; or
  - (d) sent by post in a registered or first class service recorded delivery letter to his dwellinghouse or place of business.
- (3) Where the Principal Reporter or a person duly authorised by him gives to any relevant person a notification in writing under paragraph (1) of rule 7 above, or an oral notification under that paragraph as read with paragraph (4) of that rule, he shall execute a certificate of notification in the form of Form 25.
- (4) Where a notice under rule 6 or 7 or a copy of such a statement as is mentioned in rule 18 is sent by post in accordance with paragraph (2)(d) of this rule, the notification or copy shall be deemed, for the purpose of rule 6, 7 or 18, as the case may be, to have been given the day following the date of posting.

### **Reports of proceedings of children's hearing**

31. (1) In relation to the case of any child which comes before a children's hearing, it shall be the duty of the Principal Reporter to keep a report of the proceedings of that hearing and the report—
- (a) shall include the information specified in paragraph (2) below; and
  - (b) may include such other information about the proceedings as the Principal Reporter thinks appropriate.
- (2) The information referred to in paragraph (1)(a) above is as follows—
- (a) particulars of the place and date of the hearing;
  - (b) the full name and address of the child and his sex and date of birth;
  - (c) the full name and address (so far as these can be obtained) of the father, the mother and any other relevant person in relation to the child;
  - (d) a record as to which (if any) of the persons mentioned in sub-paragraphs (b) and (c) above was present;
  - (e) the full name and address of any representative attending the hearing;
  - (f) the full name and address of any safeguarder;
  - (g) the terms of any decision disposing the case of the child, or of any decision to issue a warrant, made by the children's hearing or any other course of action taken by them with respect to the child; and
  - (h) in any case where the children's hearing proceed in accordance with section 65 of the Act—
    - (i) particulars of the grounds of referral which are accepted or, as the case may be, not accepted, and by whom;
    - (ii) a record of any direction under subsection (7) or (9) of section 65 to make application to the sheriff for a finding under that section; and
    - (iii) a record of whether the children's hearing proceeded to consider the case at a hearing.

### **Travelling and subsistence expenses**

32. (1) Subject to paragraph (2), the local authority for the area of a children's hearing shall, if a claim is made to them, pay to or in respect of any child, or to any relevant person, or to any one representative of either attending any children's hearing, a sum equal to such travelling expenses and such expenses or subsistence as have, in the opinion of the local authority, been reasonably incurred by or in respect of the child or, as the case may be, by the relevant person or by any representative of either for the purpose of enabling the said child, relevant person or representative to attend that hearing.
- (2) A claim under this rule shall be in writing and shall be made before the expiry of the period of one month commencing with the date of the children's hearing to which the claim relates.

### **Notification of 16th birthday of child subject to supervision requirement**

33. When a child subject to a supervision requirement attains the age of 16 years, the Principal Reporter shall as soon as reasonably practicable give notice of that fact to the chief constable of the police area.

*James Douglas-Hamilton*  
Minister of State,  
Scottish Office

St Andrew's House,  
Edinburgh  
31st December 1996

**SCHEDULE**

**FORM 1**

**Rule 25(1)**

**SUPERVISION REQUIREMENT**

*(Place and Date)*

A children’s hearing for (local authority area), having considered the case of (name and address of child) and in exercise of the powers conferred by section 70 of the Children (Scotland) Act 1995, being satisfied that he/she is in need of compulsory measures of supervision require him/her\* [to be under the supervision of the chief social work officer of (name of local authority)]\* [to reside in (name of place or places)] [to comply with the conditions stated below.]

[The children’s hearing order that the place/places\* where (name the child) is to reside in accordance with the requirement shall not be disclosed to (person or class of persons)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING  
SUPERVISION REQUIREMENT**

1. [ ]

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 2**

**Rule 25(2)**

**SUPERVISION REQUIREMENT UNDER SECTION 70(1)  
OF THE ACT AUTHORISING PLACEMENT IN SECURE  
ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area) having considered the case of (name and address of child) and in exercise of the powers conferred by sections 70(1), 70(3) and 70(9) of the Children (Scotland) Act 1995 being satisfied (firstly) that the child is in need of compulsory measures of supervision, and (secondly)

[that he/she\* has previously absconded and is likely to abscond unless he/she\* is kept in secure accommodation, and, that if he/she\* absconds, it is likely that his/her\* physical, mental or moral welfare will be at risk]\*

[that he/she\* is likely to injure himself/herself\* or some other person unless he/she\* is kept in secure accommodation]\*,

require him/her\* to be under the supervision of the chief social work officer for (name of local authority) and to reside in (name of residential establishment providing secure accommodation) subject to the conditions noted below.

[name of the place or places]\* (see Note below)

[The children's hearing order that the place where (name of child) is to reside shall not be disclosed to (person or class of person)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING  
SUPERVISION REQUIREMENT**

1. The child is liable to be placed and kept in secure accommodation in (name of residential establishment) at such times as the person in charge of the residential establishment, with the agreement of the chief social work officer of (name of local authority) considers it necessary that the child do so.

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the residential establishment providing secure accommodation does not have an open residential facility there will also need to be a reference to some such place.

**FORM 3**

**Rule 25(3)**

**CONTINUATION UNDER SECTION 73(9)(e) OF THE ACT  
OF SUPERVISION REQUIREMENT**

*(Place and Date)*

A children’s hearing for (local authority area), considering the case of (name and address of child) and the supervision requirement (a copy of which is attached), and in exercise of its powers under section 73(9)(e) of the Act, continues the said requirement [in force]\* [subject to the variations of that requirement noted below]\* [with the insertions in the requirement noted below]\*

[The children’s hearing in [varying]\* [imposing]\* a requirement order that the place where (name of child) is to reside shall not be disclosed to (person or class of persons)]\*

[VARIATION[S] REFERRED TO]\*

[INSERTION[S] REFERRED TO]\*

.....  
Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 4**

**Rule 25(4)**

**CONTINUATION UNDER SECTION 73(9)(e) OF THE ACT  
OF SUPERVISION REQUIREMENT WITH  
VARIATION AUTHORISING PLACEMENT IN  
SECURE ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area) having considered the case of (name and address of child) and in exercise of the powers conferred by section 73(9)(e) of the Children (Scotland) Act 1995 being satisfied (firstly) that the child is in need of compulsory measures of supervision, and (secondly)

[that he/she\* has previously absconded and is likely to abscond unless he/she\* is kept in secure accommodation, and, that if he/she\* absconds, it is likely that his/her\* physical, mental or moral welfare will be at risk]\*

[that he/she\* is likely to injure himself/herself\* or some other person unless he/she\* is kept in secure accommodation]\*,

grant continuation of the supervision requirement dated (ie sent date) a copy of which is attached, subject to the insertion of a requirement on him/her\* to be under the supervision of the chief social work officer for (name of local authority) and to reside in (name of residential establishment providing secure accommodation. Subject to the conditions noted below and any other insertions in or variations of the supervision requirement noted below.

[name of place or places]\* (see Note below)

[The children's hearing order that the place where (name of child) is to reside shall not be disclosed to (person or class of person)]\*

**CONDITIONS VARIATIONS AND INSERTIONS REFERRED TO IN THE  
SUPERVISION REQUIREMENT**

1. The child is liable to be placed and kept in secure accommodation in (name of residential establishment) at such times as the person in charge of the residential establishment, with the agreement of the chief social work officer of (name of local authority) considers it necessary that the child do so.

.....

Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the residential establishment providing secure accommodation does not have an open residential facility there will also need to be a reference to some such place.

**FORM 5**

**Rule 27**

**WARRANT TO FIND A CHILD ETC, UNDER SECTION [45(4)]\* [45(5)]\*  
OF THE ACT**

*(Place and Date)*

A children’s hearing for (local authority area) in respect of the case of (name and address of child)\* and in exercise of the powers conferred on them by section [45(4)]\* [45(5)]\* of the Children (Scotland) Act 1995, being satisfied that it is necessary for them to do so, grant warrant to find the child, and keep him/her\* in a place of safety and to bring him/her\* before a children’s hearing.

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 6**

**Rule 27**

**CONTINUATION UNDER SECTION 59(4) OF THE ACT  
OF A CHILD PROTECTION ORDER**

*(Place and Date)*

A children’s hearing for (local authority area), in respect of the case of (name and address of child)\* and in exercise of the powers conferred on them by section 59(4) of the Children (Scotland) Act 1995, being satisfied that the conditions for the making of a child protection order under section 57 of the Act are established, continue the child protection order dated (insert date of CPO by sheriff, a copy of which is attached) [and the directions made under section 58 of the Act]\* until (date) (insert date being date of hearing on eighth working day).

[For the duration of the Order the variation[s] of the [Order]\* [and] [direction[s]]\* as set out below shall have effect]\*

**VARIATIONS OF [ORDER]\* [AND]\* [DIRECTIONS]\***

- 1. (insert variations)\*

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 7**

**Rule 27**

**CONTINUATION UNDER SECTION 59(4) OF THE ACT OF A CHILD PROTECTION ORDER WITH FIRST AUTHORISATION OF REMOVAL OF CHILD TO PLACE OF SAFETY**

*(Place and Date)*

A children's hearing for (local authority area), in respect of the case of (name and address of child)\* and in exercise of the powers conferred on them by section 59(4) of the Children (Scotland) Act 1995, being satisfied that the conditions for the making of a child protection order under section 57 of the Act are established, continue the child protection order dated (insert date of CPO by sheriff, a copy of which is attached) [and the directions made under section 58 of the Act]\* until (date) (insert date being date of hearing on eighth working day).

[For the duration of the Order the variation[s] of the [Order]\* [and] [direction[s]]\* as set out below shall have effect]\*

VARIATIONS OF [ORDER]\* [AND]\* [DIRECTIONS]\*

1. The applicant shall be authorised to remove the child to and keep him/her\* in (name of place or places of safety) subject to the following conditions:
2. [The place or places of safety shall not be disclosed to (person or class of persons)]\*
- 3.

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

**FORM 8**

**Rule 27**

**WARRANT UNDER SECTION 63(5) OF THE ACT FOR  
KEEPING A CHILD IN A PLACE OF SAFETY**

*(Place and Date)*

A children’s hearing for (local authority area) in respect of the case of (name and address of child) and in exercise of the powers conferred on them by section 63(5) of the Act, being satisfied [that it is necessary that the child should be kept in a place of safety in order to safeguard or promote his/her welfare]\* [there is reason to believe that the child may fail to comply with a requirement that under section 69(3) of the Act]\* [there is reason to believe that the child may not attend at any hearing of his/her case]\* grant warrant to (insert name and address and where appropriate full designation of applicant) to keep that child in (name of place or places) for a period from (date) to (date) both days inclusive (insert period not exceeding 22 days) [and for the bringing of that child, before a children’s hearing at (insert time and/or date)].

[For the duration of this warrant the child should be subject to the conditions noted below]\*

[The children’s hearing in granting this warrant order that the place or places where the child is to reside in accordance with the warrant shall not be disclosed to (person or class of persons)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING WARRANT**

1. (insert conditions)\*

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 9**

**Rule 27**

**WARRANT UNDER SECTION 63(5) OF THE ACT FOR PLACING AND  
KEEPING A CHILD IN PLACE OF SAFETY WITH AUTHORISATION TO  
KEEP IN SECURE ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area), in respect of the case of (name and address of child) and in exercise of the powers conferred on them by section 63(5) of the Children (Scotland) Act 1995,

(firstly) being satisfied that [it is necessary that the child should be kept in a place of safety in order to safeguard or promote his/her\* welfare]\* [there is reason to believe that the child may not attend any hearing of his/her\* case]\* [there is reason to believe that the child may not comply with a requirement under section 69(3) of the Act]\*

(secondly) being satisfied [that, having previously absconded, he/she\* is likely to abscond unless kept in secure accommodation, and that if he/she\* absconds it is likely that his/her\* physical, mental or moral welfare will be at risk]\* [that he/she\* is likely to injure himself/herself\* or some other person unless he/she\* is kept in such accommodation]\*,

grant warrant to (insert name and address and where appropriate full designation of applicant) to keep the child in (name of residential establishment providing the secure accommodation) for the period from (date) to (date) (insert period not exceeding 22 days) both days inclusive and order that during the duration of the warrant, pending the disposal of his/her\* case, the child shall be liable to be placed and kept in secure accommodation within the said residential establishment at such times as the person in charge of the residential establishment, with the agreement of the chief social work officer of (name of local authority), considers necessary.

[name of place or places]\* (see Note below)

[For the duration of this warrant the child should be subject to the conditions noted below]\*

[The children's hearing in granting this warrant order that the place where the child is to reside in accordance with the warrant shall not be disclosed to (person or class of persons)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING WARRANT**

1. (insert conditions)\*

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the residential establishment providing secure accommodation does not have an open residential facility, there will also need to be reference to some such place.

**FORM 10**

**Rule 27**

**CONTINUATION UNDER SECTION 63(5) OF THE ACT OF A WARRANT  
FOR KEEPING A CHILD IN A PLACE OF SAFETY**

*(Place and Date)*

A children's hearing for (local authority area), in respect of the case of (name and address of child) and in exercise of the powers conferred on them by section 63(5) of the Children (Scotland) Act 1995, continues the warrant dated (insert date of warrant), a copy of which is attached, for the keeping of the child in a place of safety for a period from (date) to (date) both days inclusive (insert period not exceeding 22 days) [and for the bringing of that child before a children's hearing at (insert time and/or date)].

[The continuation of the warrant is subject to the variations noted below]\*

**VARIATIONS REFERRED TO**

1. (insert variations)\*

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

**FORM 11**

**Rule 27**

**CONTINUATION UNDER SECTION 63(5) OF THE ACT OF A WARRANT  
FOR PLACING AND KEEPING A CHILD IN A PLACE OF SAFETY WITH  
FIRST AUTHORISATION TO KEEP THE CHILD IN SECURE  
ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area), in respect of the case of (name and address of child) and in exercise of the powers conferred on them by section 63(5) of the Children (Scotland) Act 1995.

(firstly) being satisfied that [it is necessary that the child shall be kept in a place of safety in order to safeguard or promote his/her\* welfare]\* [there is reason to believe that the child may not attend any hearing of his/her\* case]\* [there is reason to believe that the child may not comply with a requirement under section 69(3) of the Act]\*

(secondly) being satisfied [that, having previously absconded he/she\* is likely to abscond unless kept in secure accommodation, and that if he/she\* absconds it is likely that his/her\* physical, mental or moral welfare will be at risk]\* [that he/she\* is likely to injure himself/herself\* or some other person unless he/she\* is kept in such accommodation]\*,

grant continuation, subject to the variations noted below of the warrant dated (insert date of warrant), a copy of which is attached.

Variations referred to above

1. The warrant is varied to read as a warrant to (name and address and where appropriate full designation of applicant) to keep the child in (name of residential establishment providing secure accommodation) for the period from (date) to (date) (insert period not exceeding 22 days) both days inclusive and with an order that during the duration of the warrant pending the disposal of his/her\* case, the child shall be liable to be placed and kept in secure accommodation within the said residential establishment at such times as the person in charge of the residential establishment, with the agreement of the chief social work officer of (name of local authority), considers necessary.

[name of place or places]\* (see Note below)

2. etc.

.....

Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the residential establishment providing secure accommodation does not have an open residential facility there will also need to be a reference to some such place.

FORM 12

Rule 27

WARRANT UNDER SECTION 66(1) OF THE ACT FOR  
KEEPING A CHILD IN A PLACE OF SAFETY

*(Place and Date)*

A children’s hearing for (local authority area) in respect of the case of (name and address of child), being unable to dispose of the case and in exercise of the powers conferred on them by section 63(5) of the Act, being satisfied [that it is necessary that the child should be kept in a place of safety in order to safeguard or promote his/her\* welfare]\* [the child may not attend at any hearing of his/her\* case]\* [there is reason to believe that the child may fail to comply with a requirement that under section 69(3) of the Act]\* [there is reason to believe that the child may not attend at any hearing of his/her\* case]\* grant warrant to (insert name and address and where appropriate full designation of applicant) to [find and keep the child in (name of place or places) for a period from (date) to (date) both days inclusive (insert period not exceeding 22 days) [and for the bringing of that child, before a children’s hearing at (insert time and/or date)]\*.

[For the duration this warrant the child should be subject to the conditions noted below]\*

[The children’s hearing in granting this warrant order that the place or places where (the child) is to reside in accordance with the warrant shall not be disclosed to (person or class of persons)]\*

CONDITIONS REFERRED TO IN THE FOREGOING WARRANT

- 1. (insert conditions)\*

.....  
Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 13**

**Rule 27**

**WARRANT UNDER SECTION 66(1) AND 66(6) OF THE ACT FOR  
PLACING AND KEEPING A CHILD IN A PLACE OF SAFETY WITH  
AUTHORISATION TO KEEP IN SECURE ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area), in respect of the case of (name and address of child) being unable to dispose of the case and in exercise of the powers conferred on them by section 66(1) and 66(6) of the Children (Scotland) Act 1995,

(firstly) being satisfied that [it is necessary to keep the child in a place of safety in order to safeguard or promote his/her\* welfare]\* [there is reason to believe that the child may not attend any hearing of his/her\* case]\* [there is reason to believe that the child may fail to comply with a requirement under section 69(3) of that Act]\* and

(secondly) being satisfied [that, having previously absconded, he/she\* is likely to abscond unless kept in secure accommodation, and that if he/she\* absconds it is likely that his/her\* physical, mental or moral welfare will be at risk]\* [that he/she\* is likely to injure himself/herself or some other person unless he/she\* is kept in such accommodation]\*,

grant warrant to (insert name and address and where appropriate full designation of applicant) to [find and keep]\* [keep]\* the child in (name of residential establishment providing the secure accommodation) subject to the conditions noted below for the period from (date) to (date) both days inclusive (insert period not exceeding 22 days) and for the bringing of that child before a children's hearing at (insert time and date).

[name of place or places]\* (see Note below)

[The children's hearing in granting this warrant order that the place where the child is to reside in accordance with the warrant shall not be disclosed to (person or class of person)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING WARRANT**

1. The child is liable to be placed and kept in secure accommodation in (name of residential establishment) at such times as the person in charge of the residential establishment, with the agreement of the chief social work officer of (name of local authority), considers it necessary that the child do so.

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the residential establishment providing secure accommodation does not have an open residential facility there will also need to be a reference to some such place.

**FORM 14**

**Rule 27**

**CONTINUATION UNDER SECTION 66(5) OF A WARRANT OF THE ACT  
FOR KEEPING A CHILD IN A PLACE OF SAFETY**

*(Place and Date)*

A children’s hearing for (local authority area), in respect of the case of (name and address of child), being unable to dispose of the case and in exercise of the powers conferred on them by section 66(5) of the Children (Scotland) Act 1995, being satisfied that (specify cause shown by the Principal Reporter) continue a warrant dated (insert date of warrant), a copy of which is attached, for a period from (date) to (date) both days inclusive (insert period not exceeding 22 days) and for the bringing of that child before a children’s hearing at (insert time and date).

[The continuation of the warrant is subject to the variations of the warrant [as varied]\* noted below]\*

**VARIATIONS REFERRED TO IN THE FOREGOING WARRANT**

1. (insert variations)\*

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 15**

**Rule 27**

**CONTINUATION UNDER SECTION 66(5) OF THE ACT  
OF A WARRANT FOR PLACING AND KEEPING  
A CHILD IN A PLACE OF SAFETY WITH FIRST  
AUTHORISATION TO KEEP IN SECURE  
ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area), in respect of the case of (name and address of child) being unable to dispose of the case, in exercise of the powers conferred on them by section 66(5) and 66(6) of the Children (Scotland) Act 1995.

(firstly) being satisfied that (specify cause shown by the Principal Reporter),

(secondly) being satisfied [that the child having previously absconded, he/she\* is likely to abscond unless kept in secure accommodation, and that if he/she\* absconds it is likely that his/her\* physical, mental or moral welfare will be at risk]\* [that he/she\* is likely to injure himself/herself\* or some other person unless he/she\* is kept in such accommodation]\*,

grant continuation, subject to the variations noted below, of the warrant dated (insert date of warrant), a copy of which is attached.

[The children's hearing in granting this warrant order that the place where (name) is to reside in accordance with the warrant shall not be disclosed (person or class of persons)]\*

**VARIATIONS REFERRED TO**

1. The warrant is varied to read as a warrant to (name and address and where appropriate full designation of applicant) to keep the child in (name of residential establishment providing secure accommodation) for the period from (date) to (date) (insert period not exceeding 22 days) both days inclusive and with an order that during the duration of the warrant, pending disposal of his/her\* case, the child shall be liable to be placed and kept in secure accommodation within the said residential establishment at such times as the person in charge of the residential establishment with the agreement of the chief social work officer of (name of local authority), considers necessary.

(name of place or places)\* (see Note below)

2.

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the residential establishment providing secure accommodation does not have an open residential facility there will also need to be a reference to some such place.

FORM 16

Rule 27

WARRANT UNDER SECTION 69(4) OF THE ACT FOR APPREHENSION OF CHILD AND REMOVAL TO PLACE OF SAFETY

(Place and Date)

A children’s hearing for (local authority area) having considered the case of (name and address of child) continue the case and in exercise of the power conferred on them by section 69(4) of the Children (Scotland) Act 1995, being satisfied that (name of child) has failed to fulfil a requirement made under section 69(3) of the Act, grant warrant to (insert name and address and where appropriate full designation of person) to find the child for the purpose of removing him/her\* (insert name of place or places of safety) and keeping the child there [and where that place or those places of safety is or are not (insert name of clinic, hospital or establishment named in section 69(3) requirement), to take him/her\* from the place of safety to (insert name of clinic, hospital or other establishment) for the purpose of investigation]\*

[For the duration of this warrant the child should be subject to the conditions noted below]\*

[The place or places where the child is to reside shall not be disclosed to (person or class of persons)]\*

CONDITIONS REFERRED TO IN THE FOREGOING WARRANT

- 1. (insert conditions)\*

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 17**

**Rule 27**

**WARRANT UNDER SECTION 69(4) OF THE ACT  
TO REMOVE AND KEEP CHILD IN PLACE OF SAFETY  
WITH AUTHORISATION TO KEEP IN  
SECURE ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area) having considered the case of (name and address of child) continue the case and in exercise of the power conferred on them by section 69(4) of the Children (Scotland) Act 1995, (firstly) being satisfied that the child has failed to fulfil a requirement made under section 69(3) of the Act, grant warrant to (insert name and address and where appropriate full designation of person) to find the child for the purpose of removing him/her\* (insert name of place or places of safety) and keeping the child there [and where that place or those places of safety is or are not (insert name of clinic, hospital or establishment named in section 69(3) requirement), to take him/her\* (insert name of clinic, hospital or other establishment) for the purpose of investigation]\*

(secondly) being satisfied that, [the child having previously absconded, he/she\* is likely to abscond unless kept in secure accommodation, and that if he/she\* absconds it is likely that his/her\* physical, mental or moral welfare will be at risk]\* [that he/she\* is likely to injure himself/herself\* or some other person unless he/she\* is kept in such accommodation]\*, orders that while the warrant or requirement under section 69(3) is in effect the child shall be liable to be placed in secure accommodation within (name of residential establishment providing secure accommodation)\* (see Note below) at such times as the person in charge of the establishment, with the agreement of the chief social work officer of (name of local authority) considers necessary.

[For the duration of this warrant the child should be subject to the conditions noted below]\*

[The place or places where the child is to reside shall not be disclosed to (person or class of persons)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING WARRANT**

1. (insert conditions)\*

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the place of safety does not provide secure accommodation there will also need to be a reference to some such secure accommodation.

**FORM 18**

**Rule 27**

**WARRANT UNDER SECTION 69(7) OF THE ACT  
FOR KEEPING A CHILD IN A  
PLACE OF SAFETY**

*(Place and Date)*

A children's hearing for (local authority area) having considered the case of (name and address of child) continue the case and in exercise of the powers conferred on them by section 69(7) of the Children (Scotland) Act 1995, being satisfied that [it is necessary that the child should be kept in a place of safety in the interests of safeguarding or promoting his/her\* welfare]\* [there is reason to believe that (name and address) may not attend the subsequent hearing of his/her\* case]\* grant warrant to (insert name and address and where appropriate full designation of person) for that child to be taken to and kept in (insert name of place or places of safety)]\* [until the day on which the subsequent hearing of the child's case by a children's hearing begins]\*

[For the duration of this warrant the child should be subject to the conditions noted below]\*

[The place or places of safety referred to in this warrant shall not be disclosed to (person or class of persons)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING WARRANT**

1. (insert conditions)\*

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

**FORM 19**

**Rule 27**

**WARRANT UNDER SECTION 69(7) OF THE ACT  
FOR PLACING AND KEEPING A CHILD IN PLACE  
OF SAFETY WITH AUTHORISATION TO KEEP  
IN SECURE ACCOMMODATION**

*(Place and Date)*

A children's hearing for (local authority area) having considering the case of (name and address of child) continue the case and in exercise of the powers conferred on them by section 69(4) of the Children (Scotland) Act 1995,

[being satisfied that it is necessary for the child to be kept in a place of safety in the interests of safeguarding or promoting his/her\* welfare]\* [there is reason to believe that the child may not attend the subsequent hearing of his/her\* case]\*

being satisfied [that, having previously absconded he/she\* is likely to abscond unless kept in secure accommodation, and that if he/she\* absconds it is likely that his/her\* physical, mental or moral welfare will be at risk]\* [that he/she\* is likely to injure himself/herself\* or some other person unless he/she\* is kept in such accommodation]\*

grant warrant to (insert name and address and where appropriate full designation of person) ordering the taking to and keeping of the said child in (name of residential establishment providing the secure accommodation) [for the period from (date) to (date) both days inclusive (insert period not exceeding 22 days)]\* [until the day on which the subsequent hearing of the child's case by a children's hearing begins]\* and order that while the warrant is in effect the child shall be liable to be placed in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the chief social work officer of (name of local authority), considers necessary.

[name of place or places]\* (see Note below)

[For the duration of this warrant the child shall be subject to the conditions noted below]\*

[The children's hearing in granting this warrant order that the place where (name) is to reside in accordance with the warrant shall not be disclosed to (person or class of persons)]\*

**CONDITIONS REFERRED TO IN THE FOREGOING WARRANT**

1. (insert conditions)\*

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

*Note:* If the residential establishment providing secure accommodation does not have an open residential facility there will also need to be a reference to some such place.

**FORM 20**

**Rule 28**

**REQUIREMENT UNDER SECTION 69(3) OF THE ACT**

*(Place and Date)*

The children’s hearing for (name of local authority) in respect of (name and address of child) having considered his/her\* case and being satisfied that, in order to complete their consideration of the case, it is necessary to have further investigation of the case, continue the case and for the purposes of the said investigation, in exercise of their powers under section 69(3) of the Act, require the child to [attend]\* [reside at]\* (insert name of clinic, hospital or establishment) during (insert time or period not exceeding twenty-two days).

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 21**

**Rule 28(2)**

**NOTIFICATION BY PRINCIPAL REPORTER UNDER SECTION 60(3)  
TO PERSON WHO IMPLEMENTED CHILD PROTECTION  
ORDER THAT CONDITIONS FOR THE MAKING OF  
THE ORDER ARE NO LONGER SATISFIED**

*(Date and place)*

To (name and address)

The Principal Reporter, hereby notifies you that having regard to the welfare of (name and address of child) he has decided that, [as a result of a change in the circumstances of his/her\* case]\* [in the light of further information relating to his/her\* case having been received by him]\* that [the conditions of the making of a child protection order in respect of (name of child) are no longer satisfied]\* or [the [term]\* [condition]\* [direction]\* set out below is no longer appropriate]\*.

**TERM, CONDITION OR DIRECTION REFERRED TO IN THE  
FOREGOING NOTIFICATION**

1. (Insert term, condition or direction)\*

.....

Principal Reporter

(on behalf of the Principal Reporter)

\*Delete as appropriate

**FORM 22**

**Rule 28(3)**

**NOTIFICATION BY PRINCIPAL REPORTER UNDER SECTION 60(5)  
TO PERSON WHO IMPLEMENTED CHILD PROTECTION  
ORDER THAT CONDITIONS FOR THE MAKING OF  
THE ORDER ARE NO LONGER SATISFIED**

*(Place and Date)*

To (name and address)

The Principal Reporter, hereby notifies you that having regard to the welfare of (name and address of child) has decided that, [as a result of a change in the circumstances of his/her\* case]\* [in the light of further information relating to his/her\* case having been received by him]\* that [the conditions of the making of a child protection order in respect of (name of child) are no longer satisfied]\* or [the [term]\* [condition]\* [direction]\* set out below is no longer appropriate]\*.

**TERM, CONDITION OR DIRECTION REFERRED TO IN THE FOREGOING  
NOTIFICATION**

1. (Insert term, condition or direction)\*

.....

Principal Reporter

(on behalf of the Principal Reporter)

\*Delete as appropriate

FORM 23

Rule 28(4)

FORM OF REPORT BY CHILDREN’S HEARING OF ADVICE UNDER SECTION 60(10) OF THE ACT FOR CONSIDERATION BY SHERIFF IN HIS DETERMINATION OF APPLICATION UNDER SECTION 60(7) OF THE ACT

(Place and Date)

To

On (date) a children’s hearing for (local authority area), after considering the case of (name of child and address) and the application under section 60(7) to [set aside]\* [vary]\* [the child protection order]\* [a direction under section 58 of the Act]\* [the child protection order]\* [direction]\* continued under section 59(4)]\* provide the advice set out below to assist the sheriff in his determination of the application.

ADVICE REFERRED TO IN THE FOREGOING ADVICE STATEMENT

1. (insert advice)

.....

Chairman of the Children’s Hearing

\*Delete as appropriate

**FORM 24**

**Rule 28(5)**

**FORM OF REPORT BY CHILDREN'S HEARING OF ADVICE UNDER  
SECTION 73(13) OF THE ACT PROVIDING ADVICE FOR  
CONSIDERATION BY SHERIFF IN HIS DETERMINATION  
OF DECISION OF ADOPTION AGENCY**

*(Place and date)*

To

On (date) a children's hearing for (local authority area), after considering the case of (name of child and address) and the [proposed application under section 86 of the Act]\* [proposed application under [section 12]\* [section 18]\* of the Adoption (Scotland) Act 1978]\* [the proposed placing for adoption]\* provide the advice set out below to assist the sheriff in his determination of the application.

**ADVICE IN RELATION TO THE DECISION OF THE ADOPTION AGENCY**

1. (insert advice)

.....  
Chairman of the Children's Hearing

\*Delete as appropriate

FORM 25

Rule 30

CHILDREN (SCOTLAND) ACT 1995
CERTIFICATE OF NOTIFICATION OF CHILDREN’S HEARING
TO RELEVANT PERSON
(to be subjoined to copy of notification)\*

I, ..... [Principal Reporter/on behalf of Principal Reporter]\* of (name of local authority) notified (name of relevant person) by

[speaking to him in person on (date), (time), (place)]\*

[delivering a copy of the notification to him in person on (date), (time), (place)]\*

[leaving a copy of the notification for him at his [(address), (house), (business), (address of business) or (date)]\*

[leaving a copy of the notification for him on board (name of vessel) at (place) or (date)]\*

[sending to him in [a recorded delivery/registered] letter and the post office receipt of said letter accompanies this certificate]\*

.....
Principal Reporter to the Children’s Hearing

\*Delete as appropriate

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules consolidate and amend the Children’s Hearings (Scotland) Rules 1986 taking into account the new provisions introduced by the Local Government etc. (Scotland) Act 1994, the Criminal Procedure (Scotland) Act 1995 and the Children (Scotland) Act 1995. They provide inter alia for—

- business meetings preparatory to the constitution of a children’s hearing (rule 4);
the constitution of a children’s hearing (rule 10);
incorporation of the Children’s Hearings (Scotland) Amendment Rules 1996 regarding availability of reports to “relevant persons” (rule 5(3)(a));
the opportunity for the child to express his views and for the children’s hearing to take these views into account (rule 15);
revised provisions for the appointment of safeguarders and a requirement for safeguarders to produce a written report for a children’s hearing (rule 14); and
extension of the provision for the conduct of advice hearings to include advice on adoption and parental responsibility (rule 22).

These Rules also incorporate with amendments Parts I and II of the Reporter’s Duties and Transmission of Information etc. (Scotland) Rules 1971 and effect a reduction and modification of prescribed forms and notifications.

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STATUTORY INSTRUMENTS

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1996 No. 3260 (S. 250)

**CHILDREN AND YOUNG PERSONS**

**Children’s Hearings (Transmission of Information etc.)  
(Scotland) Regulations 1996**

<i>Made</i>	<i>18th December 1996</i>
<i>Laid before Parliament</i>	<i>31st December 1996</i>
<i>Coming into force</i>	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 17(1), 40(3), 42(1) and 74 of the Children (Scotland) Act 1995(a) and of all other powers enabling him in that behalf, and after consulting the Council on Tribunals, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Children’s Hearings (Transmission of Information etc.) (Scotland) Regulations 1996 and shall come into force on 1st April 1997.

**Interpretation**

2. In these Regulations unless the context otherwise requires—
  - “the Act” means the Children (Scotland) Act 1995;
  - “the Children’s Hearings Rules” means the Children’s Hearings (Scotland) Rules 1996(b);
  - “children’s hearing” is a children’s hearing as defined in section 39(3) of the Act;
  - “child” has the meaning given to that term by section 93(2)(b) of the Act;
  - “compulsory measures of supervision” has the meaning given to that term by section 93(1) of the Act;
  - “place of safety” has the meaning given to that term by section 93(1) of the Act;
  - “Principal Reporter” has the meaning given to that term by section 93(1) of the Act;
  - “relevant local authority” has the meaning given to that term by section 93(1) of the Act;
  - “relevant person” has the meaning given to that term by section 93(2)(b) of the Act;
  - “residential establishment” has the meaning given to that term by section 93(1) of the Act;
  - “responsible for” means any person who, by virtue of a supervision requirement, has or is to have control over the child;
  - “supervision requirement” has the meaning given to that term by section 70(1) of the Act.

**Transmission by relevant local authority of information on child subject to supervision requirement**

3. (1) Where—
  - (a) in any case a children’s hearing have made, continued or varied or inserted a requirement in a supervision requirement in respect of a child; and

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(a)1995 c.36.

(b)S.I. 1996/3261.

- (b) a person other than the relevant local authority or a relevant person in relation to the child is responsible for a child under that requirement; and
- (c) it appears to the relevant local authority that any report on the child and his social background put to the children's hearing for their consideration of the case would assist that person in the care and supervision of the child,

the relevant local authority shall, as soon as reasonably practicable after they receive notice under rule 21 of the Children's Hearings Rules of the making, continuation or variation or insertion of a requirement in the requirement, give a copy of that report to that person.

(2) Where at any time while a supervision requirement is in force in respect of a child it appears to the relevant local authority that any information they have about the child or his circumstances is relevant to the care of the child, they shall make that information available to any person who is responsible for the care of the child in terms of the supervision requirement.

#### **Temporary accommodation of child subject to supervision requirement**

4. (1) Where—
- (a) a children's hearing have made, continued or varied or inserted a requirement in a supervision requirement; and
  - (b) a child is required to reside in a residential establishment or other place specified in the requirement; but
  - (c) the relevant local authority are unable to make immediate arrangements for his reception in that establishment or place,

the relevant local authority may arrange for the child to be temporarily accommodated in some suitable place, other than that specified in the requirement, for any period not exceeding 22 days commencing on the date of the making, continuation or variation or insertion of a requirement in the requirement.

(2) If it appears to the relevant local authority that they will be unable to make the arrangements mentioned in paragraph (1)(c) above before the expiry of the period of 22 days specified, the authority shall, before that period has expired, refer the case of the child to the Principal Reporter under section 73(4) of the Act on the ground that the supervision requirement ought to be reviewed.

(3) Where the relevant local authority refer the case of a child to the Principal Reporter under paragraph (2) above—

- (a) the Principal Reporter shall under section 73(8) of the Act arrange for a children's hearing to review the supervision requirement as soon as is reasonably practicable and in any event within seven days of the date of receipt of the reference by the authority; and
- (b) where the date of the sitting of the children's hearing arranged by virtue of subparagraph (a) above occurs after the expiry of the period of 22 days mentioned in paragraph (1) above, that period shall be deemed to extend to the date on which the children's hearing sits.

#### **Conveyance by the relevant local authority of a child to a residential establishment etc**

5. Whenever it is necessary to convey a child—
- (a) to a residential establishment or other place in which he is required to reside by virtue of a supervision requirement;
  - (b) to any place to which he falls to be taken under subsection (1) or (5) of section 82 (recovery of certain fugitive children) of the Act; or

(c) to any person to whom he falls to be returned under subsection (3) of that section, it shall be the duty of the relevant local authority to ensure that the child is conveyed to that establishment or place or to that person.

*James Douglas-Hamilton*  
Minister of State,  
Scottish Office

St Andrew's House,  
Edinburgh  
18th December 1996

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations re-enact with amendments rules 11, 12 and 13 of the Reporter's Duties and Transmission of Information etc. (Scotland) Rules 1971 (S.I. 1971/525). These Regulations are made *inter alia* under section 74 of the Children (Scotland) Act 1995, which replaces section 45 of the Social Work (Scotland) Act 1968 (1968 c.49). That section provides for regulations in respect of children subject to supervision requirements made by children's hearings which are governed by the Children (Scotland) Act 1995.

Regulation 3 provides for local authorities to pass on reports or other relevant information to persons responsible for a child under a supervision order.

Regulation 4 obliges local authorities in specified circumstances to arrange temporary accommodation when they cannot find an immediate place at an establishment detailed in a supervision order, failing which to refer the matter back to the Principal Reporter to deal with.

Regulation 5 obliges local authorities to arrange conveyance for a child to an establishment specified in a supervision order or under section 82 of the Children (Scotland) Act 1995 to a place of safety.

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 STATUTORY INSTRUMENTS
 

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1996 No. 3267 (S. 255)

## CHILDREN AND YOUNG PERSONS

**The Children (Reciprocal Enforcement of Prescribed Orders etc.  
 (England and Wales and Northern Ireland))  
 (Scotland) Regulations 1996**

<i>Made</i>	<i>24th December 1996</i>
<i>Laid before Parliament</i>	<i>31st December 1996</i>
<i>Coming into force</i>	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 33 of the Children (Scotland) Act 1995(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement, interpretation and extent**

1. (1) These Regulations may be cited as the Children (Reciprocal Enforcement of Prescribed Orders etc. (England and Wales and Northern Ireland)) (Scotland) Regulations 1996 and shall come into force on 1st April 1997.

(2) In these Regulations-

“the Act” means the Children (Scotland) Act 1995;

“the 1995 Order” means the Children (Northern Ireland) Order 1995(b);

“the 1969 Act” means the Children and Young Persons Act 1969(c);

“the 1989 Act” means the Children Act 1989(d);

“the Northern Ireland 1968 Act” means the Children and Young Persons Act (Northern Ireland) 1968(e);

“the 1950 Act” means the Probation Act (Northern Ireland) 1950(f);

“authority” means in relation to Northern Ireland a Health and Social Services Board established under article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(g);

“corresponding England and Wales Order” means the order as described in column 2 of Schedule 4 and listed under the number corresponding to the number under which the Scottish supervision requirement or parental responsibilities order is listed in column 1 of that Schedule;

“corresponding Northern Ireland Order” means the order or alternative orders described in column 2 of Schedule 5 and listed under the number corresponding to the number under which the Scottish supervision requirement or parental responsibilities order is listed in column 1 of that Schedule; and

“supervision requirement” has the meaning given to that term by section 93(1) of the Act.

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(a)1995 c.36.

(b)S.I. 1995/755 (N.I.2).

(c)1969 c.54.

(d)1989 c.41.

(e)1968 c.34 (N.I.).

(f)1950 c.7 (N.I.).

(g)S.I. 1972/1265 (N.I.14).

(3) In these Regulations, unless the context requires otherwise, any reference to a numbered regulation or Schedule is to the regulation or Schedule in these Regulations bearing that number and any reference in any regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

(4) This regulation and regulations 2 and 4 shall extend to England and Wales.

(5) This regulation and regulations 3 and 5 shall extend to Northern Ireland.

### **Transfer of care etc. orders from England and Wales to Scotland**

2. (1) The orders listed in Schedule 1 (being orders made by a court in England and Wales which appear to the Secretary of State to correspond generally to a supervision requirement made under the Act) shall have effect in the circumstances prescribed in paragraphs (2) and (3) for all the purposes of the Act in Scotland as if they were supervision requirements under section 70(1) of the Act made by a children's hearing for the local authority in whose area it is proposed the child or young person is to live.

(2) The circumstances referred to in paragraph (1) are that the court has given its approval under paragraph 19(1) of Schedule 2 to the 1989 Act or section 26A(a) of the 1969 Act in respect of the orders listed in Schedule 1 to the authority arranging or assisting in arranging for the child or young person to live in Scotland, and for the purposes of this paragraph the 1969 Act is modified in accordance with the provisions set out in Schedule 2.

(3) The circumstances referred to in paragraph (1) are that—

(a) the local authority for the area in which the child or young person is to live in Scotland (or to which the child or young person has moved without prior notice) has through the Principal Reporter notified the court referred to in paragraph (2) in writing that it agrees to take over the care, supervision or education supervision of the child or young person; and

(b) the authority arranging or assisting the arranging for the child or young person referred to in paragraph (2) to live in Scotland has notified the court referred to in that paragraph that it agrees to the local authority in Scotland taking over the care or supervision or education supervision of the child or young person.

(4) The orders referred to in paragraph (1) shall cease to have effect for the purposes of the law of England and Wales in the circumstances prescribed in paragraphs (2) and (3).

### **Transfer of care etc. orders from Northern Ireland to Scotland**

3. (1) The orders listed in Schedule 3 (being orders made by a court in Northern Ireland which appear to the Secretary of State to correspond generally to a supervision requirement made under the Act) shall have effect in the circumstances prescribed in paragraphs (2) and (3) for all the purposes of the Act in Scotland as if they were supervision requirements under section 70(1) of the Act made by a children's hearing for the local authority in whose area it is proposed the child or young person is to live.

(2) The circumstances referred to in paragraph (1) are that the court has given its approval under article 33 of the 1995 Order in respect of the orders listed in Schedule 3 to the authority arranging or assisting in arranging for the child or young person to live in Scotland.

(3) The circumstances referred to in paragraph (1) are that—

(a) the local authority for the area in which the child or young person is to live in Scotland (or to which the child or young person has moved without prior notice) has through the Principal Reporter notified the court referred to in paragraph (2) in writing that it agrees to take over the care, supervision, education supervision, probation or training of the child or young person; and

(b) the authority arranging or assisting in arranging for the child or young person referred to in paragraph (2) to live in Scotland has notified the court referred to in that paragraph that it agrees to the local authority in Scotland taking over the care, supervision, education supervision, probation or training of the child or young person.

(4) The orders referred to in paragraph (1) shall cease to have effect for the purposes of the law of Northern Ireland in the circumstances as prescribed in paragraphs (2) and (3).

### **Transfer of supervision requirements etc from Scotland to England and Wales**

4. (1) The supervision requirements as described and listed 1 to 5 in column 1 of Schedule 4 and a parental responsibilities order as described and listed as 6 in that column of that Schedule (appearing to the Secretary of State as generally corresponding in effect to those orders as described and listed with the corresponding numbers respectively in column 2 of that Schedule) shall in the circumstances described in paragraphs (2) and (3) have effect for all the purposes of the 1989 Act or the 1969 Act (depending under which of these enactments the corresponding England or Wales order is made) as if they were orders under the enactment under which the corresponding England or Wales order is made placing the child in question in the care of or under the supervision or education supervision of the local authority in whose area he is to live.

(2) The circumstances referred to in paragraph (1) are that:—

- (a) where a children's hearing under section 73(9) of the Act, following a notification under section 73(7) of the Act that it is proposed to move a child to England or Wales (or the child has already been so moved without notification), continues a supervision requirement with or without variation or insertion and the Principal Reporter has notified the local authority in England or Wales under whose care, supervision or education supervision and in whose area it is proposed the child will reside; or
- (b) where a child is subject to a parental responsibilities order, the local authority with responsibility for the child has notified the local authority in England or Wales under whose care order and in whose area it is proposed the child will reside.

(3) The circumstances referred to in paragraph (1) are that the local authority in England or Wales, under whose care, supervision or education supervision and in whose area it is proposed the child will reside, has consented to the proposed transfer in writing through the Principal Reporter in the case of a supervision requirement, or, in the case of a parental responsibilities order, directly to the local authority in Scotland in whose area the child has resided and in respect of whom the supervision requirement or parental responsibilities order has been made.

(4) The supervision requirements and parental responsibilities order referred to in paragraph (1) shall cease to have effect for the purposes of the law of Scotland in the circumstances prescribed in paragraphs (2) and (3).

### **Transfer of supervision requirements etc from Scotland to Northern Ireland**

5. (1) The supervision requirements as described and listed 1 to 5 in column 1 of Schedule 5 and a parental responsibilities order as described and listed as 6 in that column of that Schedule (appearing to the Secretary of State as generally corresponding in effect to those orders as described and listed with the corresponding numbers respectively in column 2 of that Schedule) shall in the circumstances described in paragraphs (2) and (3) have effect for all the purposes of the 1995 Order or the Northern Ireland 1968 Act (depending under which of these enactments the corresponding Northern Ireland order is made) as if they were orders under the enactments under which the corresponding Northern Ireland order is made placing the child in question in the care of or under the supervision, education supervision, training or probation of the authority in whose area he is to live.

- (2) The circumstances referred to in paragraph (1) are that—
- (a) where a children’s hearing under section 73(9) of the Act, following a notification under section 73(7) of the Act that it is proposed to move a child to Northern Ireland (or the child has already been so moved without notification), continues a supervision requirement with or without variation or insertion and the Principal Reporter has notified the authority in Northern Ireland under whose care, supervision, education supervision, probation or training and in whose area it is proposed the child will reside; or
  - (b) where a child is subject to a parental responsibilities order, the local authority with responsibility for the child has notified the authority in Northern Ireland under whose care order and in whose area it is proposed the child will reside.
- (3) The circumstances referred to in paragraph (1) are that the authority in Northern Ireland, under whose care, supervision, or education supervision, probation or training and in whose area it is proposed the child will reside, has consented to the proposed transfer in writing through the Principal Reporter in the case of a supervision requirement, or, in the case of a parental responsibilities order, directly to the local authority in Scotland in respect of whom the supervision requirement or parental responsibilities order has been made.
- (4) The supervision requirements and parental responsibilities order referred to in paragraph (1) shall cease to have effect for the purposes of the law of Scotland in the circumstances prescribed in paragraphs (2) and (3).

*James Douglas-Hamilton*  
Minister of State,  
Scottish Office

St Andrew’s House,  
Edinburgh  
24th December 1996

## SCHEDULE 1

Regulation 2(1)

### ORDERS MADE BY COURT IN ENGLAND AND WALES CORRESPONDING TO SUPERVISION REQUIREMENT

The orders referred to in regulation 2 are—

1. A supervision order under section 31(1)(b) of the 1989 Act.
2. A care order under section 31(1)(a) of the 1989 Act.
3. An education supervision order under section 36 of the 1989 Act.
4. A supervision order under section 7(7) of the 1969 Act.

## SCHEDULE 2

Regulation 2(2)

For the purposes of regulation 2(2) the 1969 Act is modified by inserting after section 26 the following:—

“26A. The provisions of paragraph 19 of Schedule 2 to the Children Act 1989 shall apply to local authorities where a child or young person has been placed under their supervision under section 7(7) of this Act with the substitution in the said paragraph 19 of the word “Scotland” for the words “outside England and Wales” and any other necessary modifications.”

*Transfers between England or  
Wales and Scotland*

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## SCHEDULE 3

Regulation 3(1)

### ORDERS MADE BY COURT IN NORTHERN IRELAND CORRESPONDING TO SUPERVISION REQUIREMENT

#### Welfare Orders

1. A supervision order under article 50 of the 1995 Order.
2. A care order under article 50 of the 1995 Order.
3. An education supervision order under article 55 of the 1995 Order.

#### Offence Orders

4. A supervision order under section 74 of the Northern Ireland 1968 Act.
5. A probation order under section 1 of the 1950 Act.
6. A training school order under section 74 of the 1968 Act.

**SCHEDULE 4****Regulation 4(1)**

(1)	(2)
SCOTLAND	ENGLAND AND WALES
CHILDREN (SCOTLAND) ACT 1995	
<b>A. Supervision requirements (non offence grounds)</b>	<b>Family court orders</b>
1. Supervision requirement on grounds listed in section 52(2) of the Act other than 52(2)(i) with child residing in accommodation described in section 71(2) of the Act.	1. Supervision order under section 31 of the 1989 Act.
2. Supervision requirement on grounds listed in section 52(2) of the Act other than 52(2)(i) with child residing in accommodation other than that described in section 71(2) of the Act.	2. Care order under section 31 of the 1989 Act.
3. Supervision requirement on grounds stated in section 52(2)(h) of the Act (failing to attend school regularly without reasonable excuse).	3. Education supervision order under section 36 of the 1989 Act.
<b>B. Supervision requirements (offence grounds)</b>	<b>Youth court orders</b>
4. Supervision requirement on grounds stated in section 52(2)(i) of the Act (on offence grounds) with child (10-17 years old only) residing in accommodation described in section 71(2) of the Act.	4. Supervision order under section 7(7) of the 1969 Act with a prescribed provision under section 18(2)(b) of the 1969 Act that the offender attends appointments made by his supervisor.
5. Supervision requirement on grounds stated in section 52(2)(i) of the Act (on offence grounds) with child 10-17 years old only with a requirement that he reside in accommodation other than that described in section 71(2) of the Act.	5. Supervision order under section 7(7) of the 1969 Act (with requirement of residence) with a prescribed provision under section 18(2)(b) of the 1969 Act that the offender attends appointments made by his supervisor.
<b>C. Court orders</b>	<b>Family court orders</b>
6. Parental responsibilities order under section 86 of the Act.	6. Care order under section 31 of the 1989 Act.

**SCHEDULE 5****Regulation 5(1)**

(1)	(2)
SCOTLAND	NORTHERN IRELAND
CHILDREN (SCOTLAND) ACT 1995	THE CHILDREN (NORTHERN IRELAND) ORDER 1995
<b>A. Supervision Requirements (Non-Offence Grounds)</b>	
1. Supervision requirement on grounds listed in section 52(2) of the Act other than 52(2)(i) with child residing in accommodation described in section 71(2) of the Act.	1. Supervision order under Article 50 of the 1995 Order.
2. Supervision requirement on grounds listed in section 52(2) of the Act other than 52(2)(i) with a requirement that the child reside in accommodation other than that described in section 71(2) of the Act.	2. Care order under Article 50 of the 1995 Order.
3. Supervision requirement on grounds stated in section 52(2)(h) of the Act (failing to attend school regularly without reasonable excuse).	3. Education supervision order under Article 55 of the 1995 Order.
<b>B. Supervision Requirements (Offence Grounds)</b>	<b>Children and Young Persons Act (Northern Ireland) 1968</b>
4. Supervision requirement on grounds stated in section 52(2)(i) of the Act (offence grounds) with child residing in accommodation described in section 71(2) of the Act.	4. Supervision order under section 74(1)(c) of the Northern Ireland 1968 Act (child over 10 and under 14) or Probation order under section 1 of the 1950 Act (child over 14).
5. Supervision requirement on grounds stated in section 52(2)(i) of the Act, a requirement that the child reside in accommodation other than that described in section 71(2) of the Act.	5. Training school order under section 74(1)(a) of the Northern Ireland 1968 Act.
<b>C. Court orders parental responsibilities order</b>	<b>The Children (Northern Ireland) Order 1995</b>
6. Parental responsibilities order under section 86 of the Act.	6. Care order under article 50 of the 1995 Order.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations made under section 33 of the Children (Scotland) Act 1995 provide for the reciprocal enforcement between Scotland and England and Wales and Scotland and Northern Ireland of various orders in respect of children and young persons.

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