



CHILDREN ORDER

CHILDREN (NI) ORDER 1995

Guidance and Regulations

Volume 4

Residential Care



CHILDREN ORDER

The Children Order series of regulations and guidance consists of the following:

Volume 1: Court Orders and other Legal Issues

Volume 2: Family Support, Child Minding and Day Care

Volume 3: Family Placements and Private Fostering

Volume 4: Residential Care

Volume 5: Children with a Disability

Volume 6: Co-operating to Protect Children



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PREFACE

This series of volumes of regulations and guidance builds upon “An introduction to the Children (NI) Order 1995” published by the Department of health and social Services and the Office of law Reform. The regulations and guidance in this series are primarily addressed to Health and Social Services Boards and Trusts. However, as they will have an impact upon the work of a wide range of agencies and individuals who work with children and young people in both the statutory and voluntary sector, they are of major importance to all involved with the welfare of children in any capacity including education and library boards, schools, those responsible for the management of children’s homes and those providing child minding and day care services.

THE STATUS OF REGULATIONS AND GUIDANCE

*The regulations and guidance in this series build upon the legislative framework of the Children (NI) Order 1995. The Children Order is law and must be complied with. The **regulations** made under the Children Order include permissions and restrictions as to what may or may not be done and also requirements on what must be done. As with the Order itself the regulations carry the full weight of law. The **guidance** issued under the Children Order is not law in the way that regulations are. Where the guidance explains the requirements of the Children Order or regulations it is reaffirming the law. Where it goes beyond regulations it conveys the message that “It is highly desirable to ...” or “Unless there is good reason not to, you should ...” rather than “You must”. This is intended to give some degree of flexibility in the application of what the Department considers to be good practice. However it should be noted that whilst they are not in themselves law in the way that regulations are law, it is possible that guidance documents may be referred to in court proceedings and that courts may expect justification for not following guidance.*

NOTE ON TERMINOLOGY

Although nothing in the Children Order turns on the sex of the person referred to, references in this volume to the child follow the legislative convention of the Children Order itself in referring to “he”, “his” or “him”.



The Children Order includes statements as to the powers and duties of Health and Social Services Boards and Trusts. The Order itself uses the term “authority” to refer to a Board or Trust. The powers and duties will be exercised by a Board, except where a function is exercisable by a Trust by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994. In this series of guidance references are to a Trust except in the case of the registration and inspection functions in relation to children’s homes described in Volume 4.

FURTHER READING

Whilst these volumes are designed to provide a comprehensive guide to the Children Order they do not purport to be a comprehensive survey of good practice.

It is suggested that reference might be made to:

*The Social Services Librarian
Queen’s University Medical Library
Institute of Clinical Science
Grosvenor Road
Belfast
BT12 6BT*

GENERAL PRINCIPLES ON WHICH THE CHILDREN ORDER IS BASED

In considering the detailed provisions of the Children Order in this volume attention is drawn to the major principles on which the Order is based.

- *The welfare of the child is the paramount consideration.*
- *Wherever possible, children should be brought up and care for within their own families.*
- *Children should be safe and be protected by effective intervention if they are in danger, but such intervention should be open to challenge.*



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- *When dealing with children, courts should ensure that delay is avoided, and may only make an order if to do so is better than making no order at all.*
- *Children should be kept informed about what happens to them, and should participate when decisions are made about their future.*
- *Parents continue to have parental responsibility even when their children are no longer living with them. They should be kept informed about their children and participate when decisions are made about their children's future.*
- *Parents with children in need should be helped to bring up their children themselves and such help should be provided in partnership with parents.*
- *Services provided to children and their families should draw on effective partnership between Health and Social Services Boards and Trusts and other agencies.*



VOLUME 4 – RESIDENTIAL CARE

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Residential care as the best option for some children. The importance of treating children as individuals and for Trusts to be continually aware of practice in each home as part of a comprehensive system of inspection and quality assurance. The basic legislative requirements including a statement of purpose and function for each children's home.

CHAPTER 2: STAFFING OF CHILDREN'S HOMESPAGE 8

The need for the number of staff engaged to be adequate to support the aims and objectives of each home and for staff to be experienced and qualified. Staff selection, development and training. Vetting of staff in contact with children. The importance of providing support to staff in meeting the particular demands of residential care through written guidance, supervision, staff meetings and external consultancy.

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The role of those managing homes in ensuring that staff are effectively deployed and managed to best meet the care needs of the children. The importance of access to other facilities – schools, shops etc and for family links to be maintained. Visits by those responsible for the home or their representatives. The need for accommodation to meet the needs of individual children (with special reference to children with a disability) and for them to be able to personalise areas of the home. The importance of decoration and furnishing in creating a domestic and non-institutional atmosphere. Catering. Laundry, clothing, fire precautions and health and safety. Notification of significant events, absences of person in charge etc.

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Each home to have established rules for conduct and behaviour and a written statement of permissible sanctions. The importance of creating a positive atmosphere and of engaging children positively. Issues of control – prohibition on use of corporal punishment and certain other sanctions in



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CHAPTER 5: RECORDS TO BE KEPT BY CHILDREN'S HOMESPAGE 46

All children's homes to maintain an individual case record for each child accommodated; the importance of such records to the child and for planning purposes. A further record to be kept which includes details of all children who are or have been accommodated, details of the placing authority, where the child was accommodated before entering the home and where he is to be accommodated thereafter. Time limits for retention of records.

CHAPTER 6: REGISTRATION, INSPECTION, MONITORING & VISITING PAGE 49

*Registration of voluntary and privately run children's homes with HSS boards' registration and inspection units. **Inspection** of homes provided by Trusts, voluntary homes and privately run children's homes by registration and inspection units. **Annual report on residential child care** to be produced by registration and inspection units. Monitoring of the operation of each home to be carried out by those operating the home. Each home to be visited monthly and a written report made of each visit. **Visits by Trusts** to children in voluntary and privately run homes.*

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CHAPTER 8: CHILD ABUSE IN CHILDREN'S HOMES.....PAGE 58

Those responsible for a children's home to ensure that the home has clear policies and written procedures for responding to child abuse which are agreed with the Area Child Protection Committee. Staff to be properly trained in recognising abuse. Requirements for formal notification of abuse. Trust to play active part in the development of child protection policies in residential settings. Guidance on dealing with abuse and importance of "Co-operating to protect children".

**CHAPTER 9: PLACEMENT OF CHILDREN
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Placement of children including short-term placements. Placements in residential settings to be considered in the context of other options including family placements. Family links to be maintained where practicable and in the best interests of the child. Placement outside Northern Ireland.

Requirement on placing authorities to draw up a care plan. *Matters to be included in care plans and notifications to be given regarding placements. Authorities responsible for placement of a child to act as good parents in relation to the child's health and education with particular regard to shortcomings in these areas in the child's background. Registration with GP and maintenance of health records. Provision of educational opportunities as part of the planning process. Importance of education and training to the child's future. Need to have regard to, and respect for, the child's religious and cultural background.*

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Requirements placed on Trusts, voluntary organisations and privately run children's homes to review the care plans of individual children. *Reviews as a continuous process of planning and reconsideration of care plans. Frequency, systems for reviews, consultation and other procedural matters.*



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General duty to promote contact. Powers of court to determine issues involving contact and restrictions on contact. Powers of Trusts to restrict contact in limited circumstances. Contact with children subject to child assessment orders, emergency protection orders or in police protection. Communicating decisions about contact and need to keep arrangements under review.

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CHAPTER 14: AFTERCARE: ADVICE & ASSISTANCE PAGE 168

Duty on Trusts to prepare young people they are looking after for leaving care and to provide aftercare for specified young people up to age 21 who have been accommodated by the Trust or certain other bodies including voluntary organisations. Role of voluntary organisations and privately run children's homes in preparing young people for leaving care.

CHAPTER 15: SECURE ACCOMMODATION PAGE 197

The statutory framework governing the use of secure accommodation under Article 44 of the Children Order in relation to all types of children's homes.



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*The role of secure accommodation within the context of residential care. Importance of having a clear view as to the aims and objectives of secure accommodation. Trusts to take reasonable steps to avoid the need to use secure accommodation. **Children not to be placed in secure accommodation except in exceptional circumstances covered by the legislation. Prohibition on the use of secure accommodation in voluntary and privately run children's homes.** Maximum periods for secure accommodation without judicial authority.*

CHAPTER 16: REFUGES FOR CHILDREN AT RISK PAGE 211

Provisions for bona fide organisations to provide refuges for runaway children. Powers of the Department of Health and Social Services to issue certificates with respect to voluntary and privately run children's homes and foster parents to exempt them from prosecution for certain offences where they accommodate such children.



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IMPORTANT NOTE

Under regulation 18 of the Children's Homes Regulations a copy of the Children's Homes Regulations and associated guidance is required to be kept in each home and made available to staff, children, parents etc. In the case of poor readers the main features of the regulations and guidance may be explained to them in language appropriate to their understanding.

ANNEXES

Annex A	Children's Homes Regulations (Northern Ireland) 1996
Annex B	The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996
Annex C	The Review of Children's Cases Regulations (Northern Ireland) 1996
Annex D	Contact with Children Regulations (Northern Ireland) 1996
Annex E	The Representations Procedure (Children) Regulations (Northern Ireland) 1996
Annex F	Definition of Independent Visitors (Children) Regulations (Northern Ireland) 1996
Annex G	The Children (Secure Accommodation) Regulations (Northern Ireland) 1996
Annex H	The Refuges (Children's Homes and Foster Placements) Regulations (Northern Ireland) 1996



CHAPTER 1: GENERAL INTRODUCTION

- 1.1 The regulations and guidance in this volume are concerned with the care of children in residential homes of various kinds. Residential care is a positive and desirable way of providing stability and care for some children which they, their parents and carers often prefer to other kinds of placement. In providing such care, homes should treat each child as an individual and promote and safeguard his welfare. In part this will be achieved by the planning and review of each child's case as required by the guidance and regulations covering Arrangements for Placement of Children (General) Regulations and Review of Children's Cases Regulations included in later chapters. However, homes themselves must exercise the concern that a good parent would by providing a safe environment which promotes the child's development and protects the child from exposure to harm. Responsible authorities (as defined in regulation 1(2) of the Children's Homes Regulations) need to be continually aware of practice in each home. They should define the principles upon which each home operates and establish standards for practice. The operation of the home must be regularly and carefully monitored. Trusts and other organisations responsible for children's homes should have effective management structures which guide, support, monitor and control all aspects of their work.
- 1.2 **Residential care remains a vital resource, but it is essential to see it as part of the overall network of services for children, used in a planned way and when it is in the best interests of the individual child. The major principles underlying the Children Order about partnership with parents, involvement of children and those with parental responsibility in decision-making, proper planning and review, the right to make representations and so on, apply equally to children in residential settings. This is to ensure that a placement in residential care is not seen in isolation from overall services to provide support to families and to children in need.**
- 1.3 The way in which children's homes are used has changed greatly in recent years. Whilst residential solutions are used less frequently



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overall, the young people in the homes are older than before, and older than other young people in care. Placements are frequently of short duration and some are made at critical times, when other arrangements are changing or have broken down. Children's homes are provided for a range of purposes. Some are a long-term base for a child growing up, whilst others provide accommodation for a period while specific tasks are achieved. Some of the children have suffered the most distressing life experiences and working with them calls for skills of the highest order. This guidance describes the basic requirements for providing good child care in general, but there will be some differences of emphasis depending on the nature of each home and the needs of individual children.

- 1.4 Although the administrative arrangements for the various kinds of homes governed by the regulations are different, the aim is that the requirements with regard to the welfare of each child in the home and the conduct of the home should be subject to the same standards of provision and child care practices.
- 1.5 Good practice encompasses both the running of the home and individual care and planning for each child. There is a need to be particularly sensitive to some issues in group care. Children being looked after will have very different family backgrounds and different needs and will be subject to individual child care plans. Homes must be able to respond to each child as an individual. Whilst there is a need for each child to conform to shared "house rules" which foster mutual respect within group living, the institutional needs of the home should never be allowed to dominate the lives of children and staff. Safeguarding the child's personal possessions and encouraging the child to develop ownership of some part of their surroundings is extremely important.

Summary of legislative requirements

- 1.6 The primary legislation on children's homes is contained in Parts VII, VIII, and IX of the Children Order. Part VIII replaces the provisions of Part VIII of the Children and Young Persons Act (Northern Ireland)



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1968. The children's homes referred to in this volume are children's homes as defined in Articles 72, 74 and 90 of the Children Order ie:

- homes provided by Trusts;
- voluntary homes ie homes carried on by non-profit-making organisations. A voluntary organisation would usually be expected to be a registered charity or friendly society or a limited company whose accounts show that it is not profit-making.
- registered children's homes, ie private run homes carried on by persons or by organisations which are profit-making.

The following regulations apply to those responsible for any type of children's home within the meaning of the Children Order:

- Children's Homes Regulations (Annex A)
- Arrangements for Placement of Children (General Regulations (Annex B)
- Review of Children's Cases Regulations (Annex C)
- Representations Procedures (Children) Regulations (Annex E)

1.7 The following regulations apply to all children's homes provided by Trusts and in respect of all children looked after by Trusts including those placed by them in voluntary or privately run children's homes:

- Contact with Children Regulations (Annex D)
- Definition of Independent Visitors (Children) Regulations (Annex F)

1.8 *The following regulations apply in the special circumstances indicated:*



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- The Children (Secure Accommodation) Regulations (Annex G). These apply to children looked after by Trusts and placed in secure accommodation.
- The Refuges (Children's Homes and Foster Placements) Regulations (Annex H). These apply to homes providing refuges for children at risk (Article 70).

Children with a disability

- 1.9 References to the needs of children with a disability are included in the paragraphs on staffing and accommodation in Chapters 2 and 3 respectively. The wider issues as regards services for children with a disability are addressed in volume 5.

Short-term placements

- 1.10 The Children's Homes Regulations also apply in respect of children placed for short periods in children's homes, either as a "respite care" arrangement or otherwise. Regulation 3(a) exempts premises used to accommodate children for the purpose of a holiday for periods of less than 28 days at a time.

Statement of purpose and function of children's homes

- 1.11 Regulation 4 of the Children's Homes Regulations requires the responsible authority to compile and maintain a statement of the purpose and function of the home. "Responsible authority" means -
- (a) in the case of a home provided under Part VII of the Order, the Trust by whom it is provided;
 - (b) in the case of a voluntary home, the voluntary organisation by whom it is provided; and
 - (c) in the case of a privately run children's home, the person carrying it on.



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The particulars to be included in the statement are listed in Part 1 of Schedule 1 to the regulations. Part II of Schedule 1 lists the persons to whom the statement is to be made available. The responsible authority is required to ensure that all those working at the home are informed of various matters referred to in Schedule 1 to the Children's Homes Regulations.

- 1.12 The overall purpose of the statement is to describe what the home sets out to do for children and the manner in which care is provided but should not unduly restrict the possibility of development. The statement of aims and objectives should be designed for those making placements, staff, children and parents. It is also directed at those responsible for managing the home in order that they have a clear basis for making management decisions.
- 1.13 Increasingly, homes have adjusted to meet the particular needs of children during a phase of their career in care and have adopted various approaches to the care of children. For example, some homes work with children to prepare for a definite goal in a task centred manner. Other homes attempt to reproduce family life and support children into adulthood and some work with children psychologically damaged by abuse. It is hoped that an increasing variety of imaginative and positive approaches to residential care will develop.
- 1.14 Wherever possible the aims and objectives of the home should be as concrete as possible, clearly attainable and capable of being measured or evaluated. One yardstick of success for a home should be the extent to which it meets its stated objectives, and it is necessary to recognise that factors such as the wishes of children and parents need to be taken into consideration in measuring success.
- 1.15 The statement would be expected to include a description of the intended ethos of the home. The document may embrace a philosophy or set of guiding principles. The latter may be derived from the founding principles of the organisation running the home. The statement may give expression to the religious orientation of a



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particular home. It should convey some idea of the “feel” of the home. For example an approach to the care of young people moving into independence may involve minimal staff intervention and put a heavy onus on residents accepting responsibility for the consequences of their actions, even where this may detract from the comfort of the surroundings. Such an ethos is very different from one in which care staff work very intensively with a child and take the main responsibility for the living environment and for keeping it in good repair.

- 1.16 A further section should describe the practical arrangements. A written admissions policy should describe the age range, sex, and the particular needs for care of the children the home sets out to look after. For example, if the home is attuned to the care of children with learning difficulties, then this should be clear from the statement. It should define the limitations on the home’s care provision and should be sufficiently specific to be of value in regulating admissions without being so rigid as to preclude flexibility.
- 1.17 The statement should describe the procedures for admission. Some homes will need to have extensive and detailed pre-admission procedures, particularly if the care needs which the home addresses are specialised. Other homes may be geared up to admit in emergencies in which case the procedures are likely to concentrate on the admission process itself and immediate follow up. It is extremely important for the referring agencies to be in possession of the home’s written admissions policy in order that they refer the right children. It is equally important that the staff responsible for the admission are very clear that the admission is a correct one.
- 1.18 The numbers, relevant experience and qualifications of staff in post should be stated. In larger homes children may be cared for in small groups with their own special group of staff, probably headed by a Team Leader. The statement should indicate the deployment of staff. Staff with particular responsibilities should be identified together with a brief description of those responsibilities.



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- 1.19 When the person with day to day responsibility for the running of the home is not the responsible authority this is to be included in the statement. For a registered (ie privately run) home, the statement should specify the owner and the managerial relationship between the owner and the person in charge of the home. If the home is run by a voluntary organisation, then the statement should specify the voluntary organisation and the managerial relationship between the organisation's governing body and the head of the home. It may need to describe briefly the intervening managerial layers. Similarly in the case of a home provided by a Trust the statement should describe where the Team Leader fits into the managerial structure of the Trust.
- 1.20 The statement should detail the facilities and services the home provides. The home may provide for children with special difficulties and may offer a particular programme or regime to help with developmental delay. Guidance on other matters included in this volume, eg health, education, fire precautions, discipline, complaints, reviews, will assist responsible authorities in covering these aspects.



CHAPTER 2: STAFFING OF CHILDREN'S HOMES

- 2.1 Regulation 5 of the Children's Homes Regulations requires that homes should be adequately staffed.

Establishment numbers

- 2.2 The staff of a home should be engaged in numbers which are at least sufficient to support the aims and objectives of the home and to provide both adequate supervision and activities appropriate to the age, sex and characteristics of the children. For example, residential care which aims to provide minimal support for young people approaching independence will require rather fewer staff than residential care for similar aged young people where more extensive work is being undertaken with them. It is not appropriate to specify one set of staff ratios for differing kinds of children. Those responsible will have to make judgements on staffing complements based on the needs of the children in the home and the task assigned to the home.

Qualifications, competence and experience

- 2.3 Staff must be competent, experienced and qualified for their work. All residential social work staff in children's home should hold professional qualifications. It should be the aim of responsible authorities to recruit, where possible, professionally qualified social workers to residential social work posts. Where it proves impossible to recruit qualified persons those appointed should only be appointed on a temporary basis in order that such post can be occupied by suitably qualified persons as they become available for recruitment. It is essential that responsible authorities should seek to ensure that not only are all residential staff in children's homes professionally qualified, but also that all staff have opportunities to further develop their competence in working with children and families. All residential social workers should have their competence assessed and residential social work managers should keep the individual training needs of staff continuously under review.



Selection of staff

- 2.4 Selection methods must test for maturity, sound judgement and a realistic understanding of the needs of children and young people. Experience alone may not suffice, unless it can be shown that it has enhanced the candidate's understanding and skill. Selection should also test a candidate's ability to withstand personal stress and willingness to receive support. Staff should be able to provide a good example to the children. Those inspecting homes are expected to pay particular attention to checking that all action advised in these paragraphs is undertaken as appropriate.
- 2.5 There should be a proper balance of male and female staff and it may be appropriate to use the exemption in the Sex Discrimination (Northern Ireland) Order 1976 Article 10(2)(e) to take positive steps in recruitment to ensure the appropriate balance, where it would be in the children's interest to do so.

Staff development and training

- 2.6 All new residential social workers should receive suitable induction training in the aims and methods of the home. In-service training should also cover such matters as the impact of religion, culture, race and of child protection and HIV/Aids where earlier training has not dealt with such issues. Attention will also need to be given to the additional knowledge and skills required by residential social workers who are looking after children with a disability. Importance should be placed on training in communication skills for staff caring for children suffering from visual or hearing impairment. It would be appropriate for responsible authorities to explore with the Northern Ireland Post Qualifying Partnership how the special training needs of this group of staff can be addressed.
- 2.7 There are now opportunities for social work staff to register with the Northern Ireland Post qualifying Partnership for qualifying and advanced awards in social work. All recently qualified staff should be given the opportunity to undertake consolidation training. A core of



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staff in each children's home should be enabled to work towards the achievement of level 2 of the post qualifying award which would provide an indicator of competence to undertake more advanced work. A small number of staff in each home should be encouraged to work towards the achievement of the advanced award. Only those who already hold a professional qualification in social work should be appointed as the person in charge of a children's home.

Vetting staff and others in regular contact with children

- 2.8 Those managing residential care for children must take particular care in selecting staff. They will be expected to carry out thorough checks on the suitability of staff prior to appointment for the responsibilities they will be required to undertake. Responsible authorities should check with the police for any criminal records of prospective employees. Part-time as well as full-time staff need to be carefully checked out, also people placed by training schemes, volunteers and in some circumstances regular visitors to the home. The home's daily log should always include a record of the names of all visitors to the home. Responsible authorities should give clear written guidance to staff covering the regulation and vetting of visitors to the home to ensure that children are not exposed to potential harm.
- 2.9 Similar checks should be made in relation to persons who own, or manage, or are otherwise responsible for lodgings where children are to be placed to enable them to enter work or further education. The premises should be visited, the landlady or landlord interviewed, and a written report prepared.
- 2.10 The DHSS Pre-Employment Consultancy Service (PECS) Register should also be checked in order to identify people who may be unsuitable for work with children. The Register is available to any organisation with posts involving substantial access to children, including trusts, voluntary and private sector organisations. The Register comprises a list of persons:



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- who have been prosecuted (but not convicted) for any offence against or involving a child;
- who have ceased to be employed (either through resignation or dismissal) in circumstances where the welfare of a child had been put at risk through physical, sexual or emotional abuse (whether or not, after investigation by the police, prosecution had taken place);
- who have been formally disciplined for placing the welfare of a child at risk but had not been dismissed;
- whose actions resulted in a child having suffered or been likely to suffer harm; or
- who have been considered by a child protection case conference to have perpetrated abuse in a non-employment situation and who might present a risk to children.

2.11 **Responsible authorities are required under regulation 19(2)(b) of the Children's Homes Regulations to notify the Department of Health and Social Services of any conduct suggesting a person may not be suitable for work with children.**

2.12 Checks should be made only on the preferred applicant for a post, not on people short listed for appointment. Requests for references from previous employers or other referees should include a specific enquiry as to whether there is any impediment to the prospective staff member being employed in a situation where he will have some responsibility for the care of, or substantial access to, children living away from home. Proof of qualifications should be produced and gaps in CVs satisfactorily explained.

Staff support

2.13 Caring for children in any residential setting is demanding and can be a stressful and isolating experience. It is essential that those responsible for running children's homes ensure that staff are



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properly supported by means of written guidance, staff supervision, staff meetings, training and external consultancy. Where the person in charge does not have access to a line manager, consideration should be given to appointing a “mentor” who can provide professional support.

Written guidance for staff

2.14 Staff in all homes should clearly understand their duties and should have a written job description. In addition they should receive written guidance on important procedures – in handbook or other suitable form. Guidance should be kept up to date and it is recommended that the way in which guidance documents are assembled should be amenable to easy revision. Depending on the nature of the home, guidance may be required on such matters as:-

- admission and reception of children
- methods of care and control
- case recording and access to records
- care planning
- log book and diary recording
- confidentiality
- administration of finance (petty cash) and security
- purchasing
- repairs and maintenance
- fire precautions and emergency procedures



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- the extent to which all, or any part of, the premises may be locked as a security measure
- statement of safety policy
- child protection
- arrangements for regulating and vetting visitors to the home
- arrangements for checking lodgings and vetting landladies and landlords
- HIV/Aids/Hepatitis B awareness, confidentiality and infection control
- dealing with disclosure of sexual abuse
- treatment of children who have been abused
- rostering shift handovers
- sleeping-in, bed-time and night supervision
- care practices towards children of the opposite sex to staff
- the particular care needs of children from minority ethnic groups
- religious observance
- disciplinary and grievance procedures
- delegated authority and notifications to senior staff
- placements
- reviews



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- dealing with aggression and violence
- risk taking
- dealing with sexuality and personal relationships
- working with parents.

Staff supervision

2.15 All staff should receive supervision from their line manager. This includes those who are not employed as residential social workers but who come into contact with children. Supervision should be on a one-to-one basis, in private, and, so far as is practicable, free from interruption. Staff should be afforded the opportunity to express their feelings and be helped to understand those feelings. Supervising staff should ascertain that the staff member's responses to children and degree of personal involvement with children are appropriate to the methods employed. Wherever possible staff should receive direct practical guidance.

2.16 The frequency of supervision sessions should be defined in writing, taking account of the nature of the home and demands placed on staff. Residential social workers should ideally receive supervision for one to one and a half hours at least once every four weeks. Other staff should be seen just as frequently but the length of each session would not normally need to be as long. A written record of the issues covered in supervision should be made by the supervisor and a copy provided for the staff member. These notes should contribute to identifying the training and staff developmental needs of the staff member.

Group supervision

2.17 Group supervision in a residential environment can be a useful method of increasing awareness of children's needs and of planning responses to them. It emphasises the importance of working together as a team where approaches to particular problems can be



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shared. Group supervision sessions should be taken by the person in charge who should encourage openness, self criticism and willingness to seek help. Participants should develop the confidence to give and receive feedback from their peers. Group supervision should not be used as a substitute for individual supervision the prime purpose of which is to make staff accountable for their performance.

Staff meetings

- 2.18 Staff rotas should be organised in such a way as to allow the staff, or as many as possible, to meet together. Such meetings are important for the cohesion of the staff as a group and for group supervision. They may help combat the fragmented experience the children will have of the staff group as a result of staff working shifts. Meetings should be timed so that, as far as possible, part-time staff may attend.

External consultancy

- 2.19 Residential social workers often find the services of an external consultant to be helpful. This may reduce the sense of isolation and provide a source of support outside line management. It is for those running a home to decide whether to seek consultancy support and to decide whether this will directly address the needs of the children or concentrate on staff support. If an external consultant is engaged there should be a written agreement which clearly defines the consultant's role and distinguishes it from the management function.
- 2.20 Homes which employ behavioural or psychotherapeutic methods must ensure that the person in charge is properly qualified and that he directs the practice in the home. In these homes it is particularly important that there is on-going, in-house training for staff. It is expected that external consultants with specialist expertise in these methods will be engaged to provide additional support to staff and guidance in the treatment of particular children.



CHAPTER 3: ORGANISATION OF CHILDREN'S HOMES

- 3.1 The responsible authority must create an appropriate management structure within the home to ensure that staff are deployed and responsibilities divided to best meet the care needs of the children. There must be clear arrangements for delegating authority to a member of staff when the person in charge is absent. Attention will need to be given to maximising the numbers of staff on duty at times when there is the greatest demand from the children.
- 3.2 Regulation 21 of the Children's Homes Regulations requires the registration authority (see Chapter 6) to be notified four weeks in advance of absences of four weeks or more of the person in charge of a voluntary or privately run children's home. Shorter periods of notice may be accepted by the registration authority if it thinks it reasonable in the circumstances. The regulation details the particulars to be notified. These need not be provided where no children are accommodated during the absence of the person in charge, but must be provided if a child is admitted during that period. The regulation also sets out what is required when the person in charge returns.
- 3.3 The number of staff required to be on duty at night, whether they remain awake or can sleep in, will need to be decided by those responsible for managing the home. Consideration should also be given to the way staff come on and go off duty and how information is passed between them. This is important to achieving continuity of care and maximising the effectiveness of staff coming on duty.
- 3.4 Staff will also need time free from direct contact with children to make entries in records, to plan activities, treatment or care programmes, and to receive supervision. Such times should be scheduled when rotas are prepared.
- 3.5 The way the responsibility for particular children is allocated to staff must be clearly established by the person in charge. He may for example favour a keyworker system. The allocation of such responsibilities should not restrict a child from developing



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relationships with other staff members with whom he has regular contact. A child must not feel forced to form a special relationship with a certain member of staff.

3.6 Regulation 19 of the Children's Homes Regulations requires that certain significant events must be notified by the responsible authority to children's parents and others. The events that require to be notified are detailed in regulation 19(2).

3.7 The regulations require the responsible authority to notify the Department of:

- the death of a child other than one placed by a Trust (notification of the death of a child looked after by a Trust shall be made under Article 34(1));
- inappropriate conduct by a staff member such that he might not be a suitable person for work involving children;
- serious harm. This would include where the responsible authority believes that abuse of a child has occurred. Guidance about child abuse is given in Chapter 8.

Absence of a child without permission

3.8 Under regulation 20 of the Children's Homes Regulations the responsible authority must provide to all staff and children written procedures to be followed when a child is absent without permission. In the case of very young children and poor readers the main features of the procedure should be explained to them in language appropriate to their age or understanding.

Accountability and visiting on behalf of the responsible authority

3.9 Regulation 22 of the Children's Homes Regulations requires monthly visits to all homes by those responsible or their representatives.



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The visits should not be made by anyone employed at the home. A written report of the visits should be made responsible for the home. An important purpose of these visits is to ensure that the day to day conduct of the home is seen by someone not involved in its operation and who can provide an independent report to the responsible authority. The visits should be unannounced and reports of visits should be seen by the responsible authority without amendment or deletion. In the case of a Trust home this will usually mean that the report should be presented to an appropriate committee of members of the Trust. In the case of homes managed by voluntary organisations, trustees or corporate bodies, the report should be presented to the responsible body or a sub-committee of its members. In the case of a privately run children's home the report should be seen by the proprietor personally. Before each visit the responsible authority should provide the visitor with copies of reports of visits made in the preceding six months. The responsible authority should also provide the visitor with guidance as to the purpose of visiting and the items to be covered. These should always include a check of the records of sanctions imposed on children, the records of representations and complaints, the home's daily log and the physical condition of the premises. Visitors must always be given opportunity for private conversation with any child, other family member, or staff member who requests it. They should always report on their observations of the children.

Planning the location of children's homes

- 3.10 When planning for a new home the location should be a primary consideration. An urban or rural setting may be appropriate depending on the area served and the present and future needs and background of the children. A site shared with other social services facilities, eg next door to a home for the elderly and infirm is unlikely to be suitable. Ease of access to schools, shops, youth clubs and other facilities is important. Matters of security and safety should be considered. Easy access to the home by public transport is essential to enable family links to be maintained, encouraged and developed.



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- 3.11 If possible, a home should be indistinguishable from an ordinary family residence in outward appearance and siting. Although difficulties of control with some children may influence a decision as to the character of premises, the decision should balance such considerations with the need to avoid the stigmatisation of the children which can arise from a home having the outward appearance of an institution.
- 3.12 Subject to its aims and objectives, due consideration should be given to the optimum size of the home. The principle should be borne in mind that as far as possible conditions should reflect those in an ordinary domestic environment.
- 3.13 Consideration should be given to good relationships with neighbours at the planning stage and when the home becomes operational. Children living in children's homes have as much right to live in a neighbourhood as other residents. However staff and children have responsibilities as good neighbours and due consideration must be given to neighbours' privacy, property and way of life. It is important to consider at the planning stage any aspects of design and siting which might assist in maintaining a positive relationship with those in the neighbourhood.

Structure and layout of home

- 3.14 When accommodation is being planned or an existing home adapted, the accommodation should, as far as practicable, be able to meet the needs of individual children. It is useful to have variety in the size, shape and location of bedrooms and other rooms. There must be sufficient space for children to exercise choice as to where they spend their leisure time. The design of the home must recognise the need for both companionship and privacy. A flexible approach is needed to take into account the children's wishes and to make sure that personal items of furniture and possessions can be kept to enhance and personalise a child's surroundings.



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- 3.15 Hard and fast rules (over and above the minimum requirements of the Children's Homes Regulations) would not be helpful, because the needs of each child will be different. The choice, for example, of whether a child has a separate room or shares with siblings, should only be made after careful consideration. Considerable thought must also be given to balancing the needs of the individual child with those of others.
- 3.16 Regulation 7(1) requires sufficient provision of lavatories, wash basins, baths and showers, fitted with a hot and cold water supply, for the use of resident children. It is important to recognise that the most personal aspects of daily life such as using the lavatory or taking a shower or bath should be respected as essentially private activities. Doors should be lockable, with the facility for staff to open them from outside if necessary. The siting of toilet and bathroom and closeness to each child's bedroom should take account of the child's needs and be planned on a domestic scale. Communal facilities are institutional in character and can create opportunities for abuse. They should be avoided wherever possible. Even where some bathing facilities are communal, there should always be the opportunity for any child to bathe in privacy.
- 3.17 Regulation 7(2)(a) requires that adequate levels of lighting, heating and ventilation be provided in all parts of the home used or occupied by children. These basic essentials should be provided at a comfortable level by employing high standards of design and maintenance.
- 3.18 Regulation 7(3) requires those running the home to provide facilities for visits to the children by family, friends and certain other persons. These should be in a welcoming, congenial setting and visitors should not be made to feel that they are intruding.
- 3.19 Homes are required (regulation 7(6)) to make available a place where a child can make and receive telephone calls in private. This facility should be available for everyday use and not treated as a privilege.



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- 3.20 It may sometimes be necessary for those responsible to have private discussions with a child, and consideration should be given to the availability of suitable accommodation for this purpose. In some homes staff will need office space.
- 3.21 Consideration should be given to the availability of accommodation for staff performing sleeping-in duties. The need for such accommodation will to a large extent depend on the size and type of the home, and the numbers, age and sex of the children resident in it. Where for example a home contains children of both sexes, both male and female staff should sleep in, and, ideally, two sleeping-in rooms would therefore need to be provided. In other cases it may be appropriate for only one member of staff to sleep in but in all cases emergency cover must be allowed for so that an adult is always available when, for example, a child needs escorting to hospital.
- 3.22 Wherever practicable, children should have a choice as to whether they take a bath or a shower. These should be equipped with effective thermostatic controls. Consideration should also be given to installing baths, showers and toilets in such a way that they are accessible to children with a physical disability.

Accommodation for individual children

- 3.23 Those responsible for the home must make sure that each child's accommodation is designed to secure the child's welfare and development. The statement describing the aims and objectives of the home should state how the accommodation provided contributes to the achievement of those aims and objectives.
- 3.24 Children should be able to personalise areas of the home that are regarded as their own. They should, for example, be able to display posters or pictures on their bedroom walls if they wish to do so. Facilities should also be available for children to store personal possessions in their own cupboards and/or chest of drawers.



Decoration and furnishing

- 3.25 Regulation 6 requires the provision of suitable space, furniture, bedding and furnishings – this includes curtains, floor covering and, where necessary, equipment. When considering practical arrangements within a home, items such as décor and furnishings should emphasise comfort and informality. Furniture and equipment should be appropriate to the age of the child and should enable the needs and wishes of individual children to be met sensibly rather than be standard and uniform. The siting of items such as dustbins, meters and larger items is important and should not detract from a homely appearance nor create health or hygiene hazards.
- 3.26 Regulation 7(2)(b) requires the home to be maintained in a good state of structural repair, clean and reasonably decorated and maintained. Children resident in the home should have a say in the décor and upkeep of the home if they wish to, and particularly in the decoration of their own rooms.
- 3.27 As well as internal decoration, the exterior of the home should be maintained in sound structural and decorative order. Where the home has any gardens or grassed or hard play areas, these should be kept in good order. They should be made secure by fencing appropriate to the nature of the home. This is particularly important where the home accommodates younger children.

Laundry

- 3.28 There should be arrangements which ensure that linen and clothing are regularly laundered. A child should always have clean and well laundered bedding, bathroom linen and clothes to wear. Children should be encouraged to undertake some, or for older children all, of their own washing. However, the first priority should always be the availability of clean linen and clothes. If a child cannot do his own washing the alternative should not be the wearing of dirty or unkempt clothes.



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- 3.29 In smaller homes a utility room equipped with a domestic washing machine and drier may be adequate. In larger homes it may be desirable to have heavy duty machines, and domestic machines suitable for use by resident children, preferably located separately. Centralised or external facilities may sometimes be appropriate.
- 3.30 It should be part of the role of residential social workers in homes to teach children how to do their own laundering, and indeed how to look after their clothing generally. How and when this is done is a matter for professional judgement in relation to individual children.

Catering arrangements

- 3.31 Regulation 12 of the Children's Home Regulations requires that children in homes should be provided with food in adequate quantities properly prepared, wholesome and nutritious and for some reasonable choice to be provided so far as is practicable. It is vital to ensure that varied diet is provided which includes all the essential nutrients required for normal growth and development. Appropriate equipment, crockery, cutlery and storage facilities etc must be provided. The menus provided should incorporate a reasonable choice, to allow for the individual preferences of the children. Some will have individual needs, which may relate to their racial, cultural or religious background, or to conditions such as diabetes.
- 3.32 Meals and the preparation of food are important parts of a child's day. The part of the home where this is done should as far as possible be like an ordinary domestic kitchen. Where appropriate, young children should be encouraged to help out with the preparation of a meal, or to prepare their own snacks and beverages, although such activities should take place under the close supervision of a member of staff. Older children should have the opportunity to plan meals, purchase food, cook and share meals with one or two friends, relatives or carers. Where possible, children should be involved in the planning of menus for the home and account taken of their wishes and preferences.



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- 3.33 Meal times and the shared preparation of food are opportunities for social contact. Generally staff should eat with the children. Depending on the size and nature of the home, there should be some flexibility over meal times and patterns. It may be appropriate for the times and content of meals to be varied according to school times, weekends and holidays. It should also be possible for children to be allowed to have visiting friends or relatives stay for meals where this is considered to be appropriate.
- 3.34 It is important to plan and outline a week's menu in advance and to record it in the menu book. If any dishes are altered the changes must also be noted in the menu book. Larger homes may find it more convenient to plan menus on a three or four week cycle. Compiling a menu in advance will help ensure that a balanced variety of dishes is available, provide a sound basis of the ordering of provisions, maintain a record of the food served and assist with the control of costing and budgeting.
- 3.35 Shopping for food is an important life skill. Wherever possible the children should be involved, particularly where this would help them prepare for independent living. In larger homes, where much of the purchasing for general use is by contract, this may not be practicable, but attention should still be given to assisting the children to attain the necessary skills. Also in a large home it may be difficult to sustain domestic catering practices. However, attention to detail in preparation and cooking, the creation of interesting tastes and textures and attention to the appearance of the finished dish can add the domestic touch.
- 3.36 In smaller homes, here the kitchen is on a domestic scale, it should be possible for children to participate in the preparation of a meal. In large homes, particularly where there is a central main kitchen, this may not be possible. The kitchen may contain large items of equipment which children would not be permitted to use under health and safety at work legislation. In these circumstances small kitchen areas, equipped with ordinary domestic cookers and washing up facilities should be provided near to a dining or sitting area. These will allow children to prepare their own food, snacks and beverages, under the close supervision of the residential social workers where appropriate.



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- 3.37 It is important that all staff involved in the preparation and service of food within the home should undergo periodic training in safe hygienic practices and good food handling techniques, and that such training is regularly reviewed and monitored.
- 3.38 The person carrying on the home must ensure that procedures are in place to minimise the risk of illness, whether food or non-food related, and accidents. Any outbreak of illness, in particular food related illness, should be notified to the person carrying on the home by any person in charge as soon as is practicable. Depending on the particular circumstances, it may also be appropriate to notify the Director of Public Health of the HSS Board for the area. Food samples should be saved. Procedures should be identified by the person carrying on the home for the containment and eventual termination of any outbreak of illness, particularly where this is, or is thought to be, food related.
- 3.39 The design, layout, equipment, working practices and procedures of kitchens and meal service areas must be of sufficient standard to satisfy food hygiene and food safety legislation, the Health and Safety at Work (Northern Ireland) Order 1978 and any other statutory requirements. The person carrying on the home should ensure that all staff and (where appropriate) children are aware of the requirements of the legislation and the procedures to be followed.

Provision of clothing and personal requisites

- 3.40 Children should be well clothed. Regulation 13 of the Children's Homes Regulations requires that clothes should be purchased for children in homes, preferably by the children being enabled to purchase them themselves. This should be done on an individual basis through normal shopping arrangements. Going shopping is an essential part of life. It is an occasion when a child should learn to make choices. Bulk buying or special purchasing arrangements should generally be avoided. Children should have access to the ordinary range of toiletries, cosmetics and sanitary protection and should be entitled to exercise their own preferences.



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- 3.41 Younger children should be taken shopping, preferably either singly or in pairs, so that the child can receive the fullest possible attention from the residential social worker in guiding the child to make his choices. Older children may prefer to do their own shopping but where appropriate they should be offered the opportunity to be accompanied. It is desirable that the residential social worker discuss proposed purchases in order to help the child clarify his ideas and to be aware of limits on spending. Children should be told what clothing allowance may be made available to them and new clothes should be purchased as and when required.
- 3.42 Those in charge of children's homes should take steps to ensure that the significance of a child's religious, cultural and racial background for his choice of clothing and other personal requisites is fully understood by residential social workers. For example, a muslim girl may be expected to cover her legs with leggings or trousers. It may be necessary to consult parents, previous carers or others.
- 3.43 Residential social workers should be aware of the special needs of black (Afro-Caribbean) children in relation to their hair and skin care, and these children should be assisted to purchase the necessary preparations.
- 3.44 Children should be allowed to enjoy making spontaneous purchases out of their pocket money. Normal everyday ways of making payment in shops should be employed. Order books should not be used as they stigmatise the child and restrict choice to specific shops. There are obvious dangers in large sums of cash being carried about, and where major items are being purchased it may be preferable for a staff member to accompany a child rather than to take unnecessary risk.
- 3.45 Girls should be allowed to keep their own supply of sanitary requisites. It is not acceptable for such items to be handed out singly when needed. Girls should not have to approach male social workers to request sanitary provision.



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Fire precautions

- 3.45 Regulation 14 of the Children's Homes Regulations places duties on responsible authorities in relation to the Fire Authority for Northern Ireland (FANI). Responsible authorities have to notify certain particulars to FANI and must provide adequate fire precautions, prevention, equipment, fire drill arrangements. Staff and children must be made aware of fire procedures. Where a fire causes the evacuation of a home or part of a home the person in charge is required to notify the responsible authority.

Health and safety

- 3.47 Health and safety legislation must be complied with in children's homes. The home should have a written statement of its safety policy.

Accommodation for children with a disability

- 3.48 Homes governed by the Children's Homes Regulations which accommodate children with a disability are required to provide the necessary equipment, facilities and adaptations for such children. Given the wide ranging variety of physical, mental and sensory impairments and disabilities, and the variety of needs that will arise from them, the extent and type of adaptations and equipment that have to be provided will be a matter for individual professional assessment and judgement, based on the particular needs of the individual child concerned.
- 3.49 It may, for example, be necessary to adapt the physical environment of the home to meet the needs of a child or children accommodated there, in order to permit their integration into the home. This may involve the provision of access for wheelchairs, ground-floor level sleeping accommodation, handrails on stairways and/or corridors, suitably adapted bathing and washing facilities, and specific lighting or decoration schemes. It may also be necessary to provide specialised equipment, such as visual or hearing aids. The aim should be to integrate the child in every aspect of life in the home.



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- 3.50 An important principle that should be continually borne in mind when assessing the adaptations and facilities that may be required is that a child with a disability is first and foremost a child. All the general principles in caring for the child's needs apply and should continue to be applied.



CHAPTER 4: GOOD ORDER AND DISCIPLINE

- 4.1 Each home will have established rules for conduct and behaviour. Managers and Team Leaders should set the conditions which ensure that positive child care practices prevail. Staff must convey a strong sense of wanting to form constructive relationships with resident children, and of caring about them, even when the period of care is very short. Generally children behave better within a setting which they value. Some children will seek to jeopardise positive relationships, either to test them out or because their low self-esteem cannot allow them to enjoy such relationships. They may do this by hurting themselves or others, or by destroying property. This cannot be allowed to justify low standards of care or a poor living environment. It is up to staff to create a positive atmosphere in which to care for children.
- 4.2 The successful conduct of any home is dependent on a combination of sound management, high standards of professional practice and care planning and upon caring relationships. Homes are required to have a written statement of permissible sanctions, such as extra domestic chores or removal of privileges. These may seldom need to be used in homes which are successful in engaging children positively.
- 4.3 Staff should involve children in examining and discussing the implications of behaviour which would demand staff intervention. They should initiate these discussions with children both individually and as a group. If the behaviour of a child was a reason for placement in the home, work with the child must address the question of acceptable behaviour.
- 4.4 A major determinant of good behaviour is the quality of the relationships between the staff and the children. Relationships between the staff and the children need to be based on honesty and mutual respect. Many children need to experience care which compensates for the loss of the attention and security normally provided by parents.



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- 4.5 Group discussions allow an opportunity for staff and children to discuss right and wrong, define unacceptable behaviour and examine its consequences. Homes for older children will need to operate to some degree on the basis of a consensus between staff and children about what is acceptable conduct. The children should be left in no doubt as to their responsibilities. Group discussions may bring to light discontents at an early stage before they develop into formal complaints and can contribute both to good order and the prevention of abuse. This does not mean that the authority of staff is to be subordinated to the wishes of children. The authority and responsibility of the staff should always be clearly defined, but children should be encouraged to accept responsibility for their own care, appropriate to their age and understanding.
- 4.6 There must be proper provision for the social, physical, emotional and intellectual needs of the children. It is important that there should be a structure to the child's day and the correct balance should be achieved between free and controlled time. There should be ample opportunity for children to participate in a range of appropriate leisure time activities.
- 4.7 Problems will occur where expectations of behaviour are unrealistic, inconsistent, or where insensitive methods of control are used. Misbehaviour often stems from a failure by adults to be sufficiently receptive to the needs and problems of the young people. The need to avoid labelling children as disruptive and attempting to resolve misbehaviour by new placements, without the original behaviour being properly addressed, must be recognised. One of the principal purposes of control and discipline is to enable the individual child to develop self control and feelings of self respect so that he can live in harmony within a group. Staff should encourage children to develop a proper awareness of their rights and responsibilities and those of others.
- 4.8 Managers must ensure that their staff are familiar with the relevant histories of children for whom they have responsibilities. Staff should take this into account in deciding how they respond to a child, and in making judgements about appropriate interventions. This history



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should be noted in care plans which may include agreed approaches to the control of individual children who present particular behaviour difficulties.

- 4.9 Issues of control should be examined in staff meetings. This should include agreed approaches to defusing tension and diverting aggression. Staff will need to have a common understanding of how to detect early signs of mounting tension and rehearse methods of communicating with one another when dealing with situations threatening the good order of the home.
- 4.10 A child's age understanding and competence can have a bearing on ability to recognise and understand danger whether to himself, other people or to property. If the child is very young he may not respond to instructions or other signs aimed at preventing danger. There may be a clear need to intervene by holding or, if necessary, physically restraining the child. If the child is small, physical intervention by one person is more likely to be safe and successful.
- 4.11 Children of any age may have an impaired ability to recognise and understand danger – for example, because of serious learning difficulties, autism or severe emotional disorder. For these children the need for physical intervention may be more frequent. Brief periods of withdrawal, away from the group, into a calming environment may be more effective for the severely agitated child than holding or physical restraint.
- 4,12 In homes where such children are looked after it is particularly important to ensure that they do not have unsupervised access to unsafe areas, including outside of the home or grounds. Dangerous objects and materials should be locked away. Homes should adopt normal domestic approaches to security, including for example, the locking of all external doors at night. The reasonable application of these practices would not constitute restriction of liberty.
- 4.13 On no account should children be locked in their bedrooms at night whatever their age and competence. However, in some circumstances, close night time supervision may be required.



Disciplinary measures – general

- 4.14 Except as directed otherwise by the Department of Health and Social Services, in accordance with Article 26(5) of the Children Order, regulation 8 of the Children's Homes Regulations prohibits the use of various measures (including corporal punishment) in children's homes. However, the regulations do allow for action to be taken in an emergency. Regulation 8(3)(b) states that: "**the taking of any action immediately necessary to prevent injury to any person or serious damage to property**" is not prohibited. By "injury" is meant significant injury. This would include, for example, actual or grievous bodily harm, physical or sexual abuse, risking the lives of, or injury to, the self or others by wilful or reckless behaviour, and self-poisoning. It must be possible to show that, unless immediate action had been taken, there were strong indicators that injury would follow. Prohibited measures are covered in paragraph 4.20 below.

Permitted disciplinary measures

- 4.15 Some form of sanction will be necessary where there is behaviour which would be regarded as unacceptable in any family or group environment. Often unacceptable behaviour can be prevented by the use of a verbal reprimand. The imposition of formal disciplinary measures should be used sparingly and generally only after repeated use of informal measures has proved ineffective. This is not intended to reduce the authority of staff in applying reasonable meal-time discipline or in the discretionary use of special treats.
- 4.16 Children should be encouraged to behave well by the frequent expression of approval by staff and by the generous use of rewards, rather than by extensive use of disciplinary measures. Where sanctions are felt to be necessary, these should be contemporaneous, relevant and just.
- 4.17 The responsible body should detail in writing the disciplinary measures it approves for use in the home. Other measures may not be used and any approved measure used should be appropriate to



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the individual child. Appropriate measures might be reparation, restitution, curtailment of leisure activities, additional house chores, and use of increased supervision.

- 4.18 The responsible body must ensure that all staff are aware of the measures which are acceptable, the extent of their discretion in administering them and the requirement to record their use on each occasion. The record of sanctions administered should be kept in a log book (separately from the home's daily log). Each entry should include the name of the child, details of the inappropriate behaviour, names of staff present, and date and nature of sanction. Each entry should be signed by a person authorised to sign on behalf of the responsible authority (see regulation 8(4) of the Children's Homes Regulations). All entries should be written in appropriate language, and all names, including that of the signatory, should be clearly identified.
- 4.19 The responsible authority should keep under annual review the appropriateness of the disciplinary measures approved. Responsible authorities should regularly monitor the use of sanctions and other measures of control in their homes, which should also be scrutinised by the HSS Boards' registration and inspection units. Trusts should seek legal advice about the measures to be approved and their use and should ensure that staff responsible for monitoring or managing homes also have access to legal advice.

Prohibited measures

- 4.20 The following measures are prohibited under the Children's Homes Regulations:-

Corporal punishment – regulation 8(2)(a)

The use of corporal punishment is not permitted in residential child care establishments. The term "corporal punishment" should be taken to cover any intentional application of force as punishment including slapping, throwing missiles and rough handling. It would



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also include punching or pushing in the heat of the moment in response to violence from young people. It does not prevent a person taking necessary physical action, where any other course of action would be likely to fail to avert an immediate danger of personal injury to the child or another person, or to avoid immediate danger to property. The use of “holding” which is often a helpful, containing experience for a distressed child is not excluded.

Deprivation of food and drink – regulation 8(2)(b)

It would be completely inappropriate for a child to be refused meals. Equally, it would be inappropriate to force a child to eat foods which he disliked, although it would be right to encourage a child to try a wide range of foods. Deprivation of food and drink should be taken to include the denial of access to the amounts and range of foods and drink normally available to children in the home. It would not include instances where specific food or drinks have to be withheld from a child on medical advice.

Restriction or refusal of visits/communications – regulation 8(2)(c) and 8(3)(d)

The value for most children of maintaining contact with their families and friends cannot be overstated. The restriction or refusal of contact as a punishment is not permitted, but it is recognised that in some circumstances as part of the management and planning of their care some restrictions may have to be placed on contact with certain individuals or on the facility to receive, or make, visits (see regulation 8(3)(d)). Children sometimes need to be protected from visits. The home must be guided in its approach to contact by the planning decisions of the Trust. Where contact is restricted in accordance with these plans it should be recorded on each occasion in the child's personal records. Where parents come to visit a child despite this being contrary to the care plan which has been drawn up, it will be necessary for staff to find tactful ways of dealing with this and to counsel the child. In the case of children in secure accommodation the facility to make visits will be less appropriate than in other cases.



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In general, arrangements for making and receiving visits and for other contacts will have to be compatible with the reasonable requirements of the efficient management of the home. It will continue to be legitimate to control unplanned visits.

Requiring a child to wear distinctive or inappropriate clothing – regulation 8(2)(d)

Some children in homes will already have a very negative perception of themselves. Requiring them to wear distinctive or inappropriate clothing would serve only to further undermine their self-esteem and to damage self-confidence. Distinctive or inappropriate clothes should be taken to include not only any recognisable punishment uniform or badge, but also clothes which are inappropriate to the time of day and/or the activity being undertaken. This applies also to footwear and hairstyles. Regulation 8(3)(c) makes plain that wearing distinctive clothing for purposes connected with education or any uniformed organisation (such as Scouts or Guides) is not affected.

The use of withholding of medication or medical or dental treatment – regulation 8(2)(e)

This is totally forbidden in all circumstances.

The use of accommodation to physically restrict the liberty of any child

This is prohibited except in accordance with Article 44 of the Children Order and the Children (Secure Accommodation) Regulations (see Chapter 15 and Annex G). Locking external doors and windows at night time in accordance with normal domestic security is permitted. The use of locked doors should not be an easy means of saving staff time or keeping their numbers inappropriately low. Staff should find ways of keeping each child safe which minimise the need for physical control and restriction of liberty. On no account should children be locked in their bedrooms at night whatever their age and competence. However, in some circumstances, close night time



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supervision may be required. Responsible authorities should give clear, written guidance to staff about the extent to which the home, or any part of it, may be locked as a security measure. Similarly, refusal of permission to go out, that is, “grounding”, short of measures which would constitute restriction of liberty, is not forbidden.

Intentional deprivation of sleep – regulation 8(2)(f)

Intentional deprivation of sleep is totally prohibited.

Imposition of fines – regulation 8(2)(g)

Fines imposed by courts must, of course, be paid but it is not considered appropriate for those carrying on homes to impose such sanctions. However, in cases of wilful damage or misappropriation of property belonging to others, it would be perfectly proper for the perpetrator to be required to pay, or contribute towards, the cost of repair or replacement. Withholding part of pocket money should be restricted to cases of wilful damage etc and no more than a maximum of two-thirds of a child’s pocket money should be withheld.

Intimate physical searches – regulation 8(2)(h)

Intimate physical searches of children are totally unacceptable. Occasionally, and not as a punishment, a search of a child’s clothing may be necessary – eg for weapons. Where this does not allay anxieties about the child’s safety or that of others, the child will have to be kept apart from the group and closely supervised by a member of staff. If it is suspected that a child has secreted drugs on his person the police should be notified.

General principles governing interventions to maintain control

- 4.21 The following guiding principles provide a framework in which a residential social worker can make judgements about possible interventions. It is imperative that staff exercise sound judgement



and act with discretion in deciding how to react in a particular set of circumstances.

- i. A distinction must be maintained between the use of a “one-off” intervention which is appropriate in the particular circumstances, and using it repeatedly as a regular feature of a regime.
- ii. Staff must be able to show that the method of intervention was in keeping with the incident that gave rise to it.
- iii. The degree and duration of any force applied must be proportional to the circumstances.
- iv. The potential for damage to persons and property in applying any form of restraint must always be kept in mind.
- v. The failure of a particular intervention to secure a child’s compliance should not automatically signal the immediate use of another more forceful form of intervention. Escalation should be avoided if possible, especially if it would make the overall situation more destructive and/or unmanageable.
- vi. The age and competence of the child should be taken into account in deciding what degree of intervention is necessary.
- vii. In developing individual child care plans, consideration should be given to approaches to control what would be appropriate to that child’s case.

Methods of care and control of children which fall short of physical restraint or the restriction of liberty

- 4.22 Where a child’s behaviour provokes intervention, **dialogue** is an essential response. However, staff should feel able to reinforce dialogue with actions such as standing in the way of a child wishing to leave, placing a hand on the child’s arm, or holding the child if he



is highly distressed. These are acceptable, provided that their use is persuasive rather than coercive. This notion is developed in the following paragraphs which identify two types of intervention that can be used in this manner: physical presence (eg standing in the doorway); and holding.

Use of physical presence by staff

4.23 This refers to actions which reinforce a member of staff's authority or concern. At its simplest level, a staff member's presence should be a deterrent to misbehaviour. A look or a gesture may send out signals to children which help to keep behaviour within acceptable limits. Acceptable limits can include standing in the way of a child who is ignoring instructions or losing control, and may be reinforced, for example, by placing a hand on the child's arm. The effect of this may be to restrict a child's movement without the use of (forceful) physical restraint. This is acceptable only so long as the duration of the restriction is not prolonged. Its effectiveness may depend upon the respect that the child has for the particular staff member.

4.24 The use of an adult's physical presence:

- must be likely to be effective by virtue of the overall authority carried by the staff member, and not simply his physical presence;
- must be used in the context of trying to engage the child in discussion about the significance and implications of his behaviour;
- should not be persisted in if the child physically resists. In this case a decision will need to be made about whether another form of intervention is justified.

Holding

4.25 Small children may frequently be held for a number of reasons not directly concerned with control. There are also occasions when



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control can be maintained by holding a child in a manner which does not carry the force of physical restraint. For example, an adult may insist on holding a child's hand when crossing the road. A child may be successfully diverted from destructive or disruptive behaviour by being led away by the hand, arm, or by means of an arm around his shoulder. Again, children having an argument or a fight, which in itself is not likely to cause serious harm, but is nonetheless disruptive and detrimental to the wellbeing of other children, may be successfully separated by being held firmly and guided away. The main factor separating "holding" from "physical restraint" is the manner of intervention and **degree of force applied**. Physical restraint means the degree of force necessary to **prevent** a child harming himself or others, or from damaging property. Holding would **discourage** but in itself would not prevent such action. It is more likely to find application in homes caring for younger children, particularly for those whose behaviour is unlikely to respond to verbal influence alone. However, even young adults may be successfully engaged by a hand placed firmly on the arm or shoulder to reinforce the attempts of staff to reason with them, or to emphasise the concern felt for them.

4.26 The following principles should be adopted when dealing with children in this way:

- whenever possible, the social worker involved should have an established relationship with the child and should explain to the child what he is doing and why.
- holding should not arouse sexual expectations or feelings and should cease if the child gives any indication of this;
- staff should be careful **where** they hold children. For instance, staff should be careful not to hold a child or young person in such a way that involves contact with breasts or genitals;



- if on any occasion the child forcibly resists or demonstrably objects, then “holding” should no longer be used as a method of restraint in that particular case. Consideration should be given to other means of intervention, in consultation with other staff if circumstances at the time permit.

Touching

4.27 It is not intended that this guidance should deter normal physical contact between care-providing adults and children. Physical contact is often an important element of care and parenting. Indeed, in the case of children with learning, physical or sensory disabilities, physical contact might be the primary means of communication, and staff may have to undertake intimate activities such as bathing the children. Staff should feel able to express “parental” affection towards children in their care, and to provide comfort to ease a child’s distress. Given that a high proportion of children in residential care have experienced sexual and physical abuse, residential social workers need to ensure that any physical contact is not misinterpreted. The following guiding principles are suggested:

- before or on admission to the home, staff should ascertain through discussion with the child, other professionals and previous carers, the significance for the child of physical contact with adults, particularly if previous abuse has occurred. If it is discovered that the child is not comfortable with physical contact, this should be taken into account throughout the child’s period of residence in the home. Cultural factors will also be significant in determining unacceptable forms of physical contact;
- physical contact should not be in response to or be intended to arouse sexual expectations or feelings;
- age and gender are appropriate considerations in deciding proper physical contact;



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- where a member of staff feels that it would be inappropriate to respond to a child seeking physical comfort, the reasons for denying this should be explained to the child. The child should be comforted verbally, as necessary;
- there should be no general expectations of privacy for the physical expression of affection or comfort, although this may be appropriate in some circumstances (eg a bereavement).

4.28 The issue of touching in general should be raised in induction training for staff, and discussed in supervision. The problem of sexual attraction between staff and young people in their care is an important one and responsible authorities should also consider including this in their induction programme.

Physical restraint

4.29 Physical restraint is the positive application of force with the intention of over-powering the child. That is, in order to protect a child from harming himself or others or seriously damaging property. The proper use of physical restraint requires skill and judgement, as well as knowledge of non-harmful methods of restraint. The onus is on the care worker to determine the degree of restraint appropriate and when it should be used. Staff must be careful that they do not overreact.

4.30 A staff member who has reason to be concerned about a child who indicates an intention to leave without permission, or run away, should take vigorous action. He should give clear instructions and warn the child about the consequences of not complying. The staff member may use physical presence to obstruct an exit and thereby create an opportunity to express concern and remonstrate with the child, provided the principles set out above are observed. He may hold the child by the arm to reinforce a point or secure the child's attention.



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- 4.31 Where it is clear that if the child were to leave and there would be a strong likelihood of injury to the child or others, it is reasonable to use physical restraint. However, this will only deal with the immediate problem and careful follow-up work will be necessary, probably with additional professional advice, to bring about longer-term stability and prevent repeated use of physical restraint.
- 4.32 Physical restraint should avert danger by preventing or deflecting a child's action, or perhaps by removing a physical object which could be used to harm himself or others. Physical restraint skilfully applied may be eased by degrees as the child calms down in response to the physical contact.
- 4.33 The principles relating to the use of physical restraint may be summarised as follows:
- staff should have good grounds for believing that immediate action is necessary to prevent a child from significantly injuring himself or others, or causing serious damage to property.
 - staff should take steps in advance to avoid the need for physical restraint, eg through dialogue and diversion; the child should be warned orally that physical restraint will be used;
 - only the minimum force necessary to prevent injury or damage should be applied;
 - every effort should be made to secure the presence of other staff before applying restraint. These staff can act as assistants and witnesses;
 - as soon as it is safe, restraint should be gradually relaxed to allow the child to regain self control;
 - restraint should be an act of care and control, not punishment;



- physical restraint should not be used purely to force compliance with staff instructions when there is no immediate risk to people or property.

4.34 In deciding the policy for their homes, managers should ensure adherence to the following points on the use of physical restraint:

- the circumstances and justification for using physical restraint must be recorded immediately;
- afterwards, the child should be counselled on why it was necessary to restrain him. The child should be given the opportunity to put his side of the story;
- the residential social worker's line manager should discuss the incident with the residential social worker involved within 24 hours;
- a full report of every incident should be prepared within 48 hours and submitted by the person in charge to the latter's line manager/supervising officer;
- senior managers are required to monitor every such incident and take any action indicated. They should be prepared to investigate homes where, for example, there is a pattern of children absconding or where there is frequent use of physical restraint by staff;
- senior managers must ensure that arrangements exist for children who run away to be interviewed about the reasons and circumstances by someone who is not connected with the home in question; for example, the field social worker;
- where it is clear that the residential social worker concerned needs further advice/support/training the line manager should take prompt action to ensure that it is provided;
- staff meetings should provide the opportunity for a "post-



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mortem” of the incident. Such discussion is essential to prevent the development of a culture where a physical response becomes routine.

Restriction of liberty

- 4.35 As already noted, placement in secure accommodation must fulfil the criteria set down in Article 44 of the Children Order and the Children (Secure accommodation) Regulations. These are considered in Chapter 15.
- 4.36 Although the position regarding restricting liberty by locking children up is clear, uncertainty could arise with regard to measures which fall short of locking children up, but which clearly restrict their liberty. The interpretation of the term “accommodation provided for the purpose of restricting liberty (“secure accommodation”) in Article 44(1) is ultimately a matter to be determined by the court. The Department of Health and Social Services advises that such actions should be restricted to circumstances where immediate action is necessary to prevent injury to any person, or damage to property. Responsible authorities should seek legal advice when formulating their guidance to staff.
- 4.37 In the ordinary course of maintaining control over children, an adult may tell them to do things which they do not want to accept, including refusal of permission to leave the building. If a child complies with reasonable instructions, the question of restricting liberty by the use of accommodation does not normally arise.
- 4.38 For a young child, the potential danger in leaving a home is real and obvious, and the case for action to prevent this is clear. In addition to physically restraining such a child it may be necessary to hold or closely supervise him for a matter of hours to ensure he does not run off. However, for an adolescent whose absence from the home is judged unlikely to lead to injury or serious damage, physical restraint would be inappropriate. **Staff should recognise that there are practical limitations on their ability to prevent young people running away from an open children’s home if they are**



determined to do so. The use of physical restraint in these circumstances cannot become a substitute for secure accommodation. Where there is concern for a child likely to run away and suffer significant harm or inflict injury, then consideration should be given to whether the criteria for placement in secure accommodation can be satisfied.

- 4.39 The practice of not allowing children out (“gating” or “grounding”, as it is sometimes called) is common and acceptable provided the child is not prevented from leaving by being locked in or physically restrained, and regulation 8(2)(c) (restrictions on visits or communications) of the Children’s Homes Regulations is observed. If, however, staff require a child to remain in a building or part of a building for an unreasonable length of time without relief, then this may constitute the use of accommodation to restrict liberty, even though no actual locking up is involved. This will depend upon circumstances including the space available to the child within which he is restricted, his age, competence and physical and emotional wellbeing. Unacceptable practices were revealed by the Staffordshire Pindown Inquiry 1991, where control was exercised over children by depriving them of their liberty and imposing a regime of social isolation.

Monitoring

- 4.40 In devising means of monitoring the use of physical methods of control, managers should have regard to regulation 8(4) of the Children’s Homes Regulations which requires that full records are kept of the particulars of instances in which restraint and control are exercised. The frequency with which physical means of control is employed should be examined in relation to the homes, children, and staff involved. This information should underpin line management, policy and practice statements and training programmes.



CHAPTER 5: RECORDS TO BE KEPT BY CHILDREN'S HOMES

Records on children

- 5.1 Under regulation 15 of the Children's Homes Regulations the responsible authority is required to ensure that an individual record is maintained on each child in the home. Regulation 15 requires that the case record should, so far as is practicable, include the information specified in Schedule 2 to the regulations.
- 5.2 The case record should be held in a good quality file capable of being divided into sections to hold different categories of information. The file should be able to hold certificates, photographs, school reports and other important papers which a child will accumulate. The case file should be held in a steel lockable cabinet and access controlled to ensure confidentiality and security against loss or theft.
- 5.3 The case record is of primary importance to the child because it will contain information about his life at a time when family relationships are strained, disrupted or even destroyed. It becomes the child's "memory" in lieu of parents' recollections. Details which might appear trivial may become very significant as the child grows up and needs to make sense of a disrupted childhood.
- 5.4 The case record is essential to those responsible for making plans for the child as a tool for assembling information and setting out proposals. It should be consulted prior to reviews or planning meetings so that decision-making is based on sound documented information.
- 5.5 Much of the information in a children's home file will be a duplication of that held under the arrangements for Placement of Children (General) Regulations (see Chapter 9). However, the information collected in the children's home file will be more detailed and personal to the child. It is vitally important that this information is kept safe and is passed on with the child when he moves on from the home. How this is done will depend on the child's destination, and



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and different components of the file may be passed on to different locations for safe keeping. For example, if a child moves into a long-term foster home, it will probably be appropriate for the child's personal papers, such as school reports, certificates etc and medical information to go with him to the foster home whilst the continuous record of salient information may best be kept in the central records held by a Trust, voluntary home or privately run children's home or kept with the field social worker's file.

- 5.6 When a child leaves a children's home, and the case record is passed on, the person in charge of the children's home should ensure that precise information is recorded as to where the file, or component parts, have been transferred.
- 5.7 Written entries in the case record should be signed and dated and the name of the signatory clearly identified. Those making entries must adhere to professional standards. Information should be factual, accurate and clear. The record should not include gratuitous value judgements; colloquialisms should, when thought to be the most apt description in the circumstances, be either reported speech or clearly indicated by inverted commas. Records should separate fact from opinion, but it is helpful for staffs' judgement to be recorded. It is particularly vital that a child's case record does not include stigmatising descriptive terms such as "delinquent", "maladjusted" or "uncontrollable" which carry the risk of "labelling" that child.
- 5.8 A child with sufficient understanding should be allowed such access to his file as is consistent with the Trust's policy and procedures relating to client access to non-computerised records. He should read or be told what has been recorded unless knowledge of the material will cause harm to the child or to a third party. A child should be encouraged to record his own observations on the case record including when there is disagreement about an entry in the file. If the home needs to hold information to which the child cannot have access this must be held in a separate part of the file and clearly marked restricted. When such material is of a highly sensitive nature consideration should be given as to whether it should be held on the children's home file at all.



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- 5.9 The Children's Homes Regulations require that case records should be retained for at least seventy-five years from the birth of the child or for fifteen years after the child's death if this occurs first.
- 5.10 Regulation 16 of the Children's Homes Regulations requires those responsible for a home to provide records and information about the child to the child's guardian *ad litem*.

Records on homes

- 5.11 Regulation 17 of the Children's Homes Regulations requires responsible authorities to maintain each home the records specified in Schedule 3 to the regulations and to ensure they are kept-up-to-date. The records must be retained for at least fifteen years except for menus which are to be kept for only one year. Entries in records should be signed and dated and the name of the signatory clearly identified. They should be couched in appropriate language and should record the actions of staff in the events described as well as those of the children.



CHAPTER 6: REGISTRATION, INSPECTION, MONITORING AND VISITING

Registration

- 6.1 Article 80 of the Children Order sets out what is required in applications for registration of voluntary homes. Regulation 23 of the Children's Homes Regulations makes provision regarding particulars to be notified on establishment of a voluntary home (listed in Schedule 4 to the regulations) and annual returns. A voluntary home which has been registered in accordance with section 127 of the Children and Young Persons Act (Northern Ireland) 1968 is not required to re-register on the date the Children Order comes into operation (paragraph 24 of Schedule 8 to the Order refers).
- Responsibility for registration and inspection of voluntary homes lies with HSS Boards' registration and inspection units. Hence the reference to "authority" in Articles 80-87 of the Children Order is to the Board in whose area the home is situated and applications for registration should be addressed accordingly.** A Board may have its registration and inspection functions carried out by the registration and inspection unit from another Board. However legal responsibility rests with the Board in whose area the home is situated and all registration documents should make clear that it is the Board in whose area the home is situated which registers the home.
- 6.2 Article 96 of the Children Order and regulations 29 to 34 of the Children's Homes Regulations govern application for registration of privately run homes, (including particulars required under Schedule 5 to the regulations), limits on the numbers of children that may be accommodated in such homes, particulars to be provided on annual review, inspection, cancellation of registration and change of person in charge. **As with voluntary homes responsibility for registration and inspection lies with HSS Boards' registration and inspection units. Hence the reference to "authority" in Articles 96-103 of the Children Order is to the Board in whose area the home is situated and applications for registration**



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should be addressed accordingly. The comments in paragraph 6.1 regarding the carrying out of registration and inspection functions by the registration and inspection unit from another Board also apply to privately run homes.

- 6.3 HSS Boards have the power to charge a reasonable fee for registration under Article 96(2)(b). The intention is that HSS Boards may recoup, through fees, the cost of administering the registration of privately run homes but they should not provide the HSS Boards with a profit or take account of the costs of appeals. HSS Boards may, under Article 98, cancel registration where a home ceases to meet the requirements for registration. It is an offence to carry on an unregistered children's home without reasonable excuse (Article 95(3) refers). Paragraph 25(2) of Schedule 8 to the Children order provides a three month period after the coming into force of Part IX of the Children Order for application to be made in respect of homes accommodating children placed by Trusts. For homes accommodating other children a similar three month period would, in the Department's view, seem to be reasonable. HSS Boards' registration and inspection units should draw the attention of those running any children's homes to the provisions of Article 94 of the Children Order (persons disqualified from carrying on, or being employed in, children's homes).

Checks on registration etc

- 6.4 Trusts should, when placing children in voluntary and privately run homes, check that the homes are registered with the HSS Board in whose area the home is, or is to be, situated. The Trust should take all appropriate steps to ensure that it is well informed about the practice of the home before making the placement including consulting any published report about it. Similar considerations should apply to residential placements in schools, nursing homes and residential care homes.



Inspection

- 6.5 In the interests of ensuring both that good practice is consistently sustained and that the wellbeing of children is protected, **all homes that is, homes provided by Trusts, voluntary and privately run homes should be subject to formal inspection by the HSS Boards' registration and inspection units.** The inspection should consider the operation of the home in the light of its statement of purpose, the framework of guidance and procedures laid down for its daily conduct and the guidance and regulations in this volume. Care should be taken that the inspection process supports the staff of the home while retaining independence and objectivity.
- 6.6 Each home must be inspected at specified intervals. In the case of voluntary and privately run homes, the initial inspection should be carried out before registration. Thereafter, further inspections should be carried out at annual review and on one other occasion in the year. Notification to carry out an inspection at annual review may be given to the person in charge of the home but no such notification need be given with regard to the subsequent inspection. In the case of homes provided by Trusts, inspections should take place twice in each year. While planned inspections of all homes should be notified, this does not affect the right of registration and inspection units from carrying out an inspection at any time. Registration and inspection units will be required to produce an annual report on residential child care.
- 6.7 Registration and Inspection units which include in their remit children's homes as well as adult services will need to ensure that staff in the Units have appropriate skills and experience for the work they are required to do. This will usually mean that those carrying out inspections of children's homes should be qualified and experienced in child care services. It is crucial that they are able to assess the quality and impact of the individual care planning for the child as well as the quality of the residential environment.



- 6.8 The inspection process described above should also apply to secure accommodation. See Chapter 15 for further information about secure accommodation.

Monitoring

- 6.9 Responsible authorities need to be fully aware of practice in the homes and to monitor their operation regularly and carefully. Regulation 22 of the Children's Homes Regulations requires responsible authorities to ensure that each home is visited monthly. An important purpose of these visits is to ensure that the day to day conduct of the home is seen by someone not employed at the home who can provide an independent report to the responsible authority. The visits should be unannounced and reports of visits should be seen by the responsible authority without amendment or deletion.
- 6.10 The responsible authority should provide the visitor with guidance as to the purpose of visiting and the items to be covered. These should always include a check of the records of sanctions imposed on children, the records of representations and complaints, the home's daily log and the physical condition of the premises. Visitors must always be given opportunity for private conversation with any child, other family member, or staff member who requests it and should always report on their observations of the children.
- 6.11 The standards published by the Social Services Inspectorate, as set out in "Quality Living Standards for Services: Children who Live Away from Home" January 1994, facilitate a comprehensive approach to the **Inspection and Monitoring** of children's services.
- 6.12 The monitoring process described above should also apply to secure accommodation. See Chapter 15 for further information about secure accommodation.

Visits by Trusts to children in voluntary or privately run homes

- 6.13 Regulations 35 and 36 of the Children's Homes Regulations govern the duties of Trusts under Articles 77 and 93 of the Children Order to



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satisfy themselves as to the welfare of children in voluntary and registered (ie privately run) children's homes in their area.

Regulations 35 and 36 specify the periods within which the Trust must make first, and subsequent, visits according to the circumstances. Placements are also covered by the Arrangements for Placement of children (General) Regulations (see Chapter 9 and Annex B).

- 6.14 Regulation 37 imposes requirements for visits including a requirement that an officer of the Trust should see the child during the visit unless exceptionally this is unnecessary. Relevant case papers and records must be read, signed and dated by the visiting officer, who must also make a written report and make it available to those specified in regulation 37(1)(c).



CHAPTER 7: WELFARE OF CHILDREN ACCOMMODATED IN OTHER ESTABLISHMENTS

- 7.1 Articles 175 and 177 of the Children Order deal with children accommodated:
- (a) in any residential care home, nursing home or private hospital ie homes governed by the registered Homes (Northern Ireland) Order 1992, Articles 15 and 35 of, and Schedule 5 to, the Health and Personal Social Services (Northern Ireland) Order 1973; and Part 1 of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971;
 - (b) by education and library boards.
- 7.2 The purpose of these Articles is to ensure that the welfare of children being provided with accommodation in any residential care home, nursing home or private hospital (Article 175) or by an education and library board (Article 177) is being adequately safeguarded and promoted. These Articles are to ensure that children who have a learning or physical disability are brought into the mainstream of child care legislation. The intention is to make sure children are not placed in schools, hospital facilities, nursing homes and so on for more than three months without the Trust being notified so that they can assess whether any form of intervention to promote or safeguard the child's welfare is necessary. School holidays will not count towards the three months. This means that this section will not generally be expected to apply to children accommodated by education and library boards.
- 7.3 Article 177 is not expected to apply to children who go home at the weekend. Where a Trust is considering placing children in secure accommodation it is particularly important to ensure that consent by the children to any treatment, including the administration of drugs is given following agreement by, and with the full understanding of, the child. Treatment and consent to treatment may only be given in line with Part IV of the Mental Health (Northern Ireland) Order 1986 and



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staff practice informed by the Code of Practice of that Order. Unless treatment with sedative drugs is clearly needed for a child's medical condition a Trust should take into account an establishment's practice in this respect when making placements.

- 7.4 Trusts should be cautious about exposing a child to a regime where sedation is used to control behaviour in any case and should be very cautious where major tranquillisers (eg Largactil) are involved. In such cases it may be appropriate to consider whether formal admission under the Mental Health (Northern Ireland) Order 1986 would be a more appropriate way of protecting the child's interests. This would require the strict criteria laid down in that Order to be met.
- 7.5 Articles 175 and 177 require the accommodating Trust or the person carrying on the home, as appropriate, to notify the responsible Trust if a child is provided with accommodation for a consecutive period of at least three months, or if it is intended to do so. In so far as education and library boards are concerned the responsible authority is defined for this purpose as being the Trust within whose area the child was resident immediately before being accommodated or if the child was apparently not resident in any Trust area, the Trust within whose area the accommodation being provided is situated. Persons carrying on residential care homes, nursing homes or private hospitals are required to notify the Trust within whose area the home is being carried on. Notification is also required under Articles 175 and 177 when a child ceases to be so accommodated.
- 7.6 Once a Trust has been notified that a child is being accommodated, the Trust is required by Articles 175 and 177 as appropriate, to take such steps as are reasonably practicable to enable it to determine whether the child's welfare is being adequately safeguarded and promoted.
- 7.7 In order to fulfil this requirement, it will first be necessary for the Trust to ascertain the circumstances of the particular case, to enable it to assess what steps may need to be taken. The Trust should therefore make inquiries of the education and library board accommodating the child, or the person carrying on the home in which the child is



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accommodated, in order to determine the circumstances of the child being cared for.

- 7.8 Such inquiries should be undertaken within 14 days of the Trust being notified that the child is being accommodated. Initially, it may not be necessary for the inquiries to be by means of visiting the premises where the child is being accommodated, and in the first instance it may be considered reasonable to contact the education and library board or person carrying on the home by letter or telephone.
- 7.9 The Trust should seek to assure itself that contact between the child and its parents or persons with parental responsibility is adequate, having regard to the circumstances of the case. It should at least obtain written assurances from the education and library board or person carrying on the home that proper parental contact and responsibility is established or is being maintained. If the Trust thinks it appropriate it may also contact the parents, or other persons with parental responsibility, to confirm that contact is being maintained and that parental responsibility is being exercised adequately to safeguard and promote the welfare of the child.
- 7.10 If the Trust becomes aware that parental contact has ceased, or there are concerns that the welfare of the child may not be adequately safeguarded or promoted, it should consider what steps need to be taken. Where it appears that proper parental contact has not been maintained, or the Trust has other concerns as to the welfare of the child, arrangements should be made for the child to be visited as soon as possible and not later than 14 days from the date the concerns first came to the Trust's attention.
- 7.11 Having established the circumstances of the case, the Trust is required by Article 177(5)(b), as appropriate, to consider the extent to which (if at all) it should exercise any of its functions under the Children Order in respect of the particular child.



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- 7.12 Under Article 175(5) persons authorised by a Trust may enter any residential care home, nursing home or private hospital within the Trust's area to establish whether the requirements of the Article are being complied with. For example, a Trust which had reason to believe that a home was accommodating a child without notification under Article 175(1) could enter the home to ascertain whether the child was in fact being accommodated and if the child's welfare was being adequately safeguarded and promoted. It is an offence to intentionally obstruct a person authorised by a Trust in exercise of these powers of entry.
- 7.13 Such powers do not exist however in respect of education and library boards. Trusts may nevertheless, wish to make suitable arrangements with such establishments in their area to be given access to the premises in order to determine that the requirements of Article 177 are being complied with.



CHAPTER 8: CHILD ABUSE IN CHILDREN'S HOMES

- 8.1 All those concerned with children's homes must be aware of the possibility that a child may be abused during the period he is in a home. Staff in homes have key roles in identifying abuse and in bringing it to the immediate attention of the responsible authorities. Responsible authorities must ensure that the home has clear policies and written procedures for responding to abuse which are integrated with local procedures agreed by the Area Child Protection Committee. They must also ensure that staff have adequate training in recognising abuse and in the home's procedures. Staff in homes should have routine links with other agencies concerned with child protection for example, Trusts, schools, hospitals, GPs etc and should not work in isolation from them. Abuse always constitutes serious harm to the child and formal notification of it must be given as required by regulation 19 of the Children's Homes Regulations.
- 8.2 Whenever staff in a children's home receive evidence that a child is suffering or has suffered abuse, they **must** pass that information to a person with the authority to investigate and evaluate the information. Normally this means informing the Trust who will in turn involve other agencies, including the police or NSPCC who may become involved with the investigation according to the circumstances and local arrangements. The home's written guidance to staff should describe the sort of circumstances in which referral could and should be made and should identify exactly to whom referral should be made.
- 8.3 There may be unusual circumstances in which it is best to inform the police first, for example when there is direct evidence that a serious crime has been committed or the child is in such immediate danger that the protective powers of the police are needed. In such circumstances the Trust should always be informed immediately. Guidance on the duties of agencies in investigating child abuse is given in **Volume 6: Co-operating to Protect Children**. A copy of the latter should be kept in every children's home.
- 8.4 Those responsible for running the home should produce a written statement which gives procedural guidance to all staff on what to do



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when they receive possible evidence of child abuse. This document will need to be written in consultation with the Area Child Protection Committee. The Trust should play an active part in promoting the development of child protection policies in residential settings, in ensuring that they are aware of the specialists they can turn to for advice or as a first contact in times of crisis. Abuse occurs in a range of circumstances. The child may have suffered abuse whilst away from the children's home, for example at the family home, at a friend's or at school. The child may also have been abused within the children's home by another child or a member of staff or by a visitor. **Whatever the circumstances, it is essential that first priority is given to protecting the child and then setting in motion the investigation through making the reports described above.**

- 8.5 Some children may seek to tell staff, in confidence, that they have been abused. Staff must understand that it is not possible to give an absolute guarantee of confidentiality. That could put them in the untenable position of being in possession of information that a crime has been committed without the necessary freedom to report it, and it may make it impossible for the child to be protected from further abuse. Staff should resist being drawn into secretive and collusive relationships with children. It is essential that the relationships built up between children and staff are such that the children feel they can trust staff to do the best thing with a disclosure of abuse. This means that the child feels his wishes about what should happen are taken into account.
- 8.6 In order that staff may feel confident about the reassurances they can give to children, those in charge of children's homes should ensure that staff are fully abreast of local practice and procedures and those of the placing Trust. It is also important for staff to know what to do if they believe insufficient action has been taken in relation to a suspicion or allegation of abuse.
- 8.7 When a child in a children's home abuses another child, a very clear distinction will need to be made between, on the one hand behaviour



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which amounts to serious physical assault, intimidation and sexual assault which requires external child protection intervention and possibly criminal investigation and, on the other hand, normal childhood behaviour or sexual exploration which should be dealt with by a residential social worker. A child in a children's home has the same rights to protection by the police and care agencies as any child. Training and written guidance must address the boundaries between behaviour which can be regarded as "normal", and behaviour which cannot. Bullying or intimidation also need to be taken into account in training and guidance. There should be continuing professional discussion between staff, with appropriate managerial or supervisory support, to reaffirm what is normal behaviour.

- 8.8 Abuse has implications for all the children in the home. Other children might have been abused by the same child but not told staff, or have known about the abuse but felt too afraid or guilty to tell anybody. Care agencies and those with parental responsibility for all children affected by the incident should be informed and involved in discussions about handling the situation. It is important that staff in the children's home co-operate fully with external investigators so that the full extent of abuse is discovered. The children affected must receive proper counselling and the implications of the incident(s) for the future plans of each child must be considered methodically. Staff need supervisory or managerial support to deal effectively with these processes and to avoid defensiveness. In this way the precipitate removal of children, which may not be in their long-term interests, is most likely to be avoided.
- 8.9 It has to be recognised that children can be abused by a member of staff. What has been said above applies equally to this situation. The Trust responsible for the child, the registering authority for the home, other care agencies using the home, the police and those with parental responsibility for children in the home must all be informed. It is obviously in the best interests of the children and the home for there to be the fullest possible co-operation with the investigating authorities. There is a need for advice to junior staff to encourage them, when necessary, to share their concerns about senior staff



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with those making an investigation of the Trust. This may be very difficult for them and they need to be reassured that it is the right thing to do. Procedures which ensure this should be set out in the written guidance to staff and be dealt with in training and supervision.

- 8.10 Those managing the home will also need to consider what steps are required within their disciplinary procedures. It would normally be appropriate for the staff member to be suspended from the duty either on the grounds of the possibility of the alleged abuse recurring, or concern that his presence might interfere with the investigation. It is also important to ensure that a member of staff in this situation is advised of the need to seek advice in relation to both criminal and disciplinary investigations and proceedings.
- 8.11 It is important for those managing homes to appreciate that three strands of investigation have to be brought to a definite conclusion where a member of staff is alleged to have abused a child in the home.

The inter-departmental and inter-agency child protection investigation which should proceed to a case conference where decisions will be made on the action necessary to ensure the continuing protection of the child. Decisions will be based on professional judgements of the information presented to the conference. Any court proceedings to protect the child will be based on the balance of probabilities.

The police investigation of whether a crime has been committed. In order to prosecute, there must be sufficient evidence to support a case that an offence has been committed beyond reasonable doubt. It is most important to understand that if there is insufficient evidence to support a prosecution, it does not mean that there is no need to take steps to protect the child, including care proceedings, or that the member of staff concerned should not face disciplinary proceedings by his employers.

The employer's disciplinary procedure should discover whether the staff member has been guilty of misconduct or gross misconduct



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in the course of his duties as an employee. In addition to the facts concerning what the staff member is alleged to have done to the child, employers will need to consider his performance in such matters as carrying out procedures, making proper records, and reporting incidents to others. These factors may be secondary to the alleged abuse but nonetheless vitally important to good practice and management which is designed to support good child care in the home. The employer should also review the recruitment and supervision of the staff member and undertake any further checks that may be appropriate.

- 8.12 It is essential that the common facts of the alleged abuse are applied independently to each of the three strands of investigation. The fact that a prosecution is not possible, does not mean that action in relation to child protection or employee discipline is not feasible or necessary. The outcome of one strand of investigation may have a bearing on another. The important thing is that a definite conclusion is reached in each case.
- 8.13 It is essential that all staff in children's homes receive induction and initial training in the recognition of child abuse and the home's procedures for reporting it. Staff should also receive follow-up training which is appropriate to the aims and objectives of the home and which is closely linked to the training initiatives of the Area Child Protection Committee. They may need some separate training but on many occasions this should be undertaken jointly with others engaged in this work.
- 8.14 It is essential that staff caring for children who have been abused receive specific training and supportive professional supervision. Staff should be made aware of how the experience of being sexually abused affects the way a child relates to adults, so that they can take full account of this in the way they respond. Those responsible for children's homes should give consideration to the need for external consultancy when staff are caring for children who have been abused or in cases of particular seriousness and complexity.



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- 8.15 A copy of the child protection procedures prepared by the responsible Trust should be available to all staff in the home and steps should be taken to ensure they read and understand these and are able to act on them.



CHAPTER 9: PLACEMENT OF CHILDREN AND MAKING CARE PLANS

9.1 This chapter gives guidance on arrangements for placement and planning to safeguard and promote the welfare of children looked after by a Trust or accommodated by a voluntary organisation or privately run children's home without the involvement of a Trust. The agency looking after or accommodating the child is referred to in this chapter as the *responsible authority* unless otherwise indicated. The Arrangements for Placement of Children (General) Regulations and guidance reflect the emphasis in the Children Order on partnership between parents, children and the responsible authority and between the responsible authority and other agencies, as being the most effective means of meeting the needs of the individual child.

Children who are looked after by a Trust

9.2 A child is looked after by a Trust if he is in its care by reason of a court order or is being provided with accommodation for more than 24 hours by agreement with the parents or with the child if he is aged 16 or over (Article 25(1) and (2)).

9.3 A Trust does not have parental responsibility for a child looked after under voluntary arrangements, but is obliged to comply with the appropriate regulations. A care order does give a Trust parental responsibility but a parent or guardian retains parental responsibility and may continue to exercise it to the extent that this is not incompatible with the care order (see Articles 5(7) and 53(3)(b)).

Welfare

9.4 The primary duty of a Trust is to safeguard and promote the welfare of a child who is looked after and to make such use of services available for children cared for by their own parents as appears to the Trust reasonable in the case of a particular child (Article 26(1)(b) refers). The immediate and long-term needs of the child should be provided for in the Trust's planning for the child. The Trust is



required to give the same attention to the wishes and feelings of a child in care, parents and others as it must when providing accommodation under voluntary arrangements. The Trust should take into account the child's religious persuasion, racial origin and cultural and linguistic background. For children with physical and/or sensory disability or a learning disability the accommodation provided for them should not be unsuitable to the needs of the child (Article 27(9)). **Trusts should ensure that all children placed away from home are provided with the Department's leaflet "Living Away from Home: Your rights – A Guide for Children and Young People".**

Family links

- 9.5 When a child is being looked after by a Trust the Trust is required to make arrangements for that child to live with a member of his family unless to do so would be impracticable or inconsistent with the child's welfare (Article 27(7)). "Family" in this context is any person falling within the scope of Article 27(4) or a relative, friend or other significant person in the child's life, eg a person in whose favour a residence order was in force immediately before a care order was made.
- 9.6 In so far as it is reasonably practicable and consistent with the child's welfare, the child should be accommodated near his home and siblings should be accommodated together (Article 27(8)(a) and (b) refers). The provisions of paragraphs 9 and 11 of Schedule 2 to the Children Order can be used together to achieve reunification of a family when the child is living apart from some or all of his family but is not looked after by a Trust. This would be a matter for consideration also when a Trust is notified of a child accommodated by an education or library board or others (Articles 175 and 177).

Protection of the public

- 9.7 If it appears necessary to protect members of the public from serious injury from the actions or behaviour of a child, a Trust may exercise



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its powers in a manner which is not consistent with Article 26(4). Article 26(5) and (6) further states that the Department of Health and Social Services may, if it is considered necessary to protect members of the public from serious injury, give directions to a Trust. Where such directions are given, the Trust shall comply even though this is inconsistent with its duties under Article 26.

Arrangements for Placement of Children (General) Regulations and Review of Children's Cases Regulations

- 9.8 The Arrangements for Placement of Children (General) Regulations places a duty on Trusts, voluntary organisations and privately run children's homes to draw up and record an individual plan for the child. "Looking After Children" (LAC) forms have been developed and designed to facilitate care planning and review processes. Trusts should introduce these forms for all children in care or accommodated by them. If, in exceptional circumstances, Trusts decide not to use the LAC forms, they must ensure that their systems are of a comparable standard and conform with the associated regulations and guidance. The Review of Children's Cases Regulations require that the plan is reviewed and amended as necessary on a regular basis – see Chapter 10. In these regulations, the expression "*arrangements*" is used; this guidance uses the social work term "*plan*". Planning is required from the earliest possible time after recognition of need or referral where the provision of accommodation (whether under voluntary arrangements or court order) is likely to be necessary. The plan should be reviewed on an ongoing basis. The responsible authority is required to seek and take into account all necessary considerations for the child's welfare, including his wishes and feelings, the wishes and feelings of the parents and all other relevant persons.

Partnership and participation

- 9.9 One of the key principles of the Children Order is that responsible authorities should work in partnership with the parents of a child who is being looked after and also with the child himself, where he is of sufficient understanding, provided that this is consistent with



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promoting the child's welfare. A second, closely related principle, is that parents and children should participate actively in the decision-making process. Partnership will only be achieved if parents are advised and given explanations of the Trust's powers and duties and the actions the Trust may need to take, for example, exchanges of information with other agencies. The general duties of responsible authorities outlined in Articles 26, 76 and 92 are primarily based on these principles. These duties require responsible authorities to consult parents and others and the child (where he is of sufficient understanding) before any decision is made affecting a child who is about to be or is already being looked after by a Trust, or who is accommodated in a voluntary home or privately run children's home. This recognises that parents always retain their parental responsibility. A Trust may limit parents' exercise of that responsibility when a child is looked after by a Trust as a result of a court order, but only if it is necessary to do so to safeguard and promote the child's welfare (Article 53(3)(b) and (4)).

9.10 The successful development of partnership with parents should in most cases avoid the need for care proceedings or emergency action. Although genuine partnership will be easier to achieve in the absence of compulsory measures, the same kind of approach should be taken in cases where a child is in the care of the Trust as a result of a court order. This will be achieved by:

- consulting and notifying the parents about decisions affecting the child having regard to the views of the child's carers ie foster parents or residential social worker and recognising that the child's welfare is the paramount consideration;
- promoting contact between the child and his parents and family where it is reasonably practicable and consistent with the child's welfare; and
- seeking to work with the parents to achieve a safe and stable environment for the child to return to (where this is judged



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feasible) or by finding a satisfactory alternative placement for the child.

Provision of accommodation by voluntary agreement

9.11 The provision of accommodation for a child by a Trust under voluntary agreement with the parents will occur when the parents:

- suggest that kind of arrangement to the Trust;
- specifically request such provision; or
- accept proposals made by the Trust.

In these situations parents contribute their experience and knowledge of the child to the decision and the Trust brings a capacity to provide services, to co-ordinate the contribution of other agencies and to plan for and review the child's needs. These placements fall within the scope of the Arrangements for Placement of Children (General) Regulations which require the Trust to agree a plan with the parents for the placement of the child. The plan should take into account the wishes and feelings of the child where he is of sufficient understanding. The Review of Children's Cases Regulations require a review of that plan on a regular basis. Accommodation may also be provided to a child aged 16 or over, despite parental objection if the child agrees (Articles 21(5) and 22(5)). In these cases, the Trust will be working closely with the child to agree the plan for providing accommodation. **(It should be noted that, by virtue of Article 2(8) all references to accommodation provided by a Trust under the Children Order are to the types of accommodation listed in Article 27(2).**

9.12 Agreements between parents and the responsible authority must reflect the fact that parents retain their parental responsibility. Their continuing involvement with the child and exercise of their responsibility should be the basis of the agreed arrangements and all concerned in the arrangements should be aware of this. One agreement may cover several short-term placements such as a



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respite care arrangement if the conditions of regulation 13 of the Arrangements for Placement of Children (General) Regulations are satisfied.

Children looked after who are subject to a court order

- 9.13 The Arrangements for Placement of Children (General) Regulations apply to all cases where a child who is subject to a court order is looked after by a Trust on a compulsory basis.

Short-term placements

- 9.14 Regulation 13 of the regulations allows for a defined series of short pre-planned placements (eg for respite care, phased care and family link schemes) to be treated as a single placement for the application of these regulations. A plan for the child is required and all the requirements of the regulations apply, but need not be repeated for each episode of accommodation so long as the conditions in regulation 13 are met. The conditions in regulation 13 are:

- all the placements occur within a period which does not exceed one year;
- no single placement is for a duration of more than four weeks; and
- the total duration of the placements does not exceed 90 days.

All the placements should relate to the same establishment for a residential placement (or the same carer for a family placement).

Making the plan

- 9.15 The Arrangements for Placement of Children (General) Regulations place a statutory duty on responsible authorities to draw up a plan in writing for a child whom they are proposing to look after or



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accommodate in consultation with the child, his parents and other important individuals and agencies in the child's life (regulation 3). Planning for the child should begin prior to placement. After placement, the plan should be scrutinised and, if necessary, adjusted at the first review two weeks after the date the child was first looked after and at subsequent reviews.

- 9.16 In an emergency or immediate placement, it may not be possible to draw up a long-term plan prior to placement. However, a provisional outline plan should always exist. The first plan should then be drawn up as soon as possible after the child has been looked after or accommodated and in any event not later than 14 days after the placement started. Once a plan has been drawn up it should be notified to the child and his parents. Persons who have been consulted and other relevant individuals should be notified on a need to know basis. Notification should normally take place prior to placement but where this is not possible, it should occur as soon as possible thereafter. Any amendments made to the plan should be recorded in writing and notified to those consulted or involved in the reviews as required by the Review of Children's Cases Regulations.
- 9.17 Where a child is provided with accommodation under agreed voluntary arrangements the plan for the child will have been agreed with the parents. It will form the basis of a written agreement between the responsible authority and the parents. However, where the accommodation is being provided as the result of a self-referral for assistance to a Trust by a child aged 16 years or over the agreement should be between that child and the Trust. Where a child who is looked after is the subject of a court order, the Trust should still seek to work in partnership and reach agreement with the parents, wherever possible. The arrangements made must be recorded in writing and a copy given to the parents.

The purpose of planning

- 9.18 The purpose of planning is to safeguard and promote the child's welfare as required by the general welfare duties in Articles 18(1), 26(1), 76 and 92. The drawing up of an individual plan for a child



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looked after will prevent drift and help to focus work with the family and child. This should be achieved in broad terms by:

- assessing the child's needs;
- determining the objectives to be met to safeguard and promote the child's welfare;
- consulting with parents, the child and others whom the responsible authority considers are relevant;
- appraising the options available to meet those objectives;
- making decisions in full consultation with the child, his parents and other agencies and individuals with a legitimate interest;
- designating individuals to undertake specific tasks; and
- setting a timescale in which tasks must be achieved or reassessed.

Welfare of the child

9.19 Regulation 4 of, and Schedules 1-3 to, the Arrangements for Placement of Children (General) Regulations list matters to be considered by the responsible authority, so far as is reasonably practicable, when drawing up a plan for a child who is to be looked after or accommodated. The Children Order and the regulations require the following aspects of the child's welfare to be reflected in the plan:

- the child's needs;
- the wishes and feelings of the child having regard to his understanding;



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- parental responsibilities and the parents' capacity to provide for the child's needs;
- the ability of the parent to adhere to an agreed plan (this may not be feasible in situations where a child is the subject of a court order);
- the provision of services under Part IV of the Children Order in respect of children looked after by a Trust;
- the type of placement best suited to the child's needs (taking into account the duty in relation to children looked after by a Trust to place the child near his home and with siblings if applicable);
- appropriate provision for the child's religious persuasion, racial origin and cultural and linguistic background;
- a Trust's duty under Article 27(7) to enable the child to live with a parent, other person with parental responsibility for the child, relative or friend or, in the case of a child in care, a person in whose favour a residence order was in force immediately before the care order was made, or other person with a legitimate interest in the child;
- the arrangements proposed for contact with regard to the duty on a Trust in Article 29 to promote and maintain contact between the child and his family or contact under directions from the court;
- the requirement in regulation 6 of the Arrangements for Placement of Children (General) Regulations, that a voluntary organisation or the person carrying on a privately run children's home should endeavour to promote contact between the child, parents, other persons with parental responsibility or a relative, friend or person connected with the child; and



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- reunification issues not covered above;
- the particular need a child may have because of a disability, including: suitability of accommodation and its location, arrangements for specific assessments (for example, under the Education and Libraries (Northern Ireland) Order 1986); and any further needs relating to physical or sensory disabilities or learning difficulties;
- the arrangements to be made for the child's development, health and education.

Implementation of decisions arising from the plan

9.20 It is important that the decisions arising from the plan are implemented. This is best done by ensuring that all those involved in the planning and subsequent review process know clearly who is responsible for implementing which decisions and when. The value of the plan will diminish if objectives are not met because there has been poor communication, lack of clarity about who is responsible for what and the relevant timescales.

Monitoring the support and supervision of the placement

9.21 The regulations relating to specific placements provide for support and supervision of the placements. Arrangements must also provide for line management supervision and monitoring of the social worker's performance in supporting and supervising the placement. Good records will play a key part in this appraisal of the social worker's performance in relation to a placement's aims and objectives. The examination of records by the line manager should precede as well as accompany periodic discussions about the placement.

Inter-agency arrangements

9.22 Where a child is placed by a Trust (the 'transferring' Trust) under the Arrangements for Placement of Children (General) Regulations in the



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area of another Trust (the “receiving” Trust) the transferring Trust should inform the receiving Trust of the placement and provide sufficient information for the receiving Trust to be able to complete its register in accordance with regulation 10. The transferring Trust should notify also the other relevant authorities, the appropriate education and library board etc of the placement and arrangements for supervision.

Placement outside Northern Ireland

- 9.23 A Trust may arrange (or assist in arranging) for a child for whom it is providing accommodation by voluntary agreement to live outside Northern Ireland with the approval of every person who has parental responsibility for the child (Article 33(2)). In the case of a child who is in care the court’s approval must be sought (article 33(1)). This may only be given in certain circumstances, namely where every person with parental responsibility for the child consents or consent is dispensed with under Article 33(5); the child himself consents (if he has sufficient understanding); suitable arrangements have been made for the reception and welfare of the child in the new country and living there would be in the child’s best interests (Article 33(3) and (4)).
- 9.24 Where the child is moving to another jurisdiction (ie to England, Wales, Guernsey or the Isle of Man) the effect of the care order may be transferred to the relevant public authority in the receiving jurisdiction by virtue of regulations made under section 101 of the Children Act 1989 or Article 180 of the Children Order (the Children (Prescribed Orders – Northern Ireland, Guernsey and Isle of Man) Regulations 1991 (S.I. 1991/2023) and the Children (Prescribed Orders – Isle of Man and Guernsey) Regulations (Northern Ireland) 1996 respectively). The transfer of care orders to Scotland will continue to be effected under the Social Work (Scotland) Act 1968 until such time as section 33 of the Children (Scotland) Act 1995 and regulations under that section are brought into operation.



Records

- 9.25 Accurate, comprehensive and well organised records are essential to good practice. They are the basis for a clear and common understanding of the plan for the child, the arrangements made, agreements reached and decisions which have been made and the reasons for them. Careful recording of agreements and decisions enables the implementation of planning decisions to be monitored effectively and kept under review. The responsible authority's records will be one important source of information for the child who is permanently placed away from his birth family.
- 9.26 Regulations 8 and 10 of the arrangements for Placement of Children (General) Regulations require responsible authorities to keep two sets of records:
- a case record for every child placed by the responsible authority; and
 - a register of all children in the Trust's area who are placed under these regulations whether by the Trust or another responsible authority, and of all children placed by the Trust outside its area.

Different requirements in respect of registers apply to voluntary organisations and privately run children's homes. The detail of regulation 10(2) and (4)-(7) should be studied.

Registers

- 9.27 The register provides a record of the identity and whereabouts of every child placed by a responsible authority. A Trust's register will provide a means of immediate reference to basic information about any child placed in an area as a Trust has to register children placed by it and other responsible authorities in its area. A Trust also has to register children placed by it outside its area.



Case records

9.28 A child's case record should include all the information about family history, involvement with the responsible authority and progress which is relevant to the child being looked after or accommodated. The case record will be an integrated case record for all purposes. Regulation 8(2) requires that the case record contains:

- (a) a copy of the arrangements made for the child (the plan);
- (b) copies of any written reports in the responsible authority's possession concerning the welfare of the child; this will include family history and home study reports, reports made at the request of a court, reports made of visits to the child, his family or his carer, health reports etc;
- (c) copies of all the documents used to seek information, provide information or record views given to the authority in the course of planning and reviewing the child's case and review reports (see also regulation 10 of the Review of Children's Cases Regulations);
- (d) details of arrangements for contact and contact orders and any other court orders relating to the child.
- (e) details of any arrangements made for another agency or person to act on behalf of a Trust or organisation which placed a child.

It is recommended that any contribution the child may wish to make such as written material, photographs, school certificates etc should also be included.

9.29 The record should be kept in such a fashion that it is easy to trace the process of decision-making and in such a way that the views of the child and his parents can be easily found and related to the sequence of decisions taken and arrangements made. In addition, any papers temporarily placed in the record which are the property of



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the child should be identified as such and marked for return at the appropriate time.

- 9.30 The child's record should be separate from management records, records relating to a foster parent or residential care matters which are not solely concerned with the individual child. Where some information contained in these other records is relevant to the child a duplicate entry should appear in the child's record. Records should not be amalgamated even in the case of siblings although a degree of cross-reference and duplicate entry will be necessary.

Safekeeping of records

- 9.31 Regulation 9 of the Arrangements for Placement of Children (General) Regulations requires that responsible authorities should take steps to ensure the safekeeping of records. This includes 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.

Access to records

- 9.32 The Children Order requires responsible authorities to give access to records to persons duly authorised by the Department (such as the Social Services Inspectorate) and to the guardians *ad litem* appointed by the court. The Data Protection Act 1984 and the Access to Personal Files Act 1987 give individuals rights of access to certain information about themselves. The Data Protection Act applies only to computerised records. The Data Protection (Subject Access Modification) (Social Work) Order 1987 (SI 1987/1904) provides for certain information to be exempted in prescribed circumstances from the right of access as does the Data Protection (Miscellaneous Subject Access Exemptions) Order 1981 (SI 1987/1906) which maintains existing restrictions, including those in relation to adoption records.
- 9.33 The Access to Personal Files Act 1987 and the Access to Personal Files (Social Services) Regulations 1989 similarly provide for subject



access to information which is kept manually by Trusts (not voluntary organisations or persons who carry on a privately run children's home) and detail the circumstances in which information is exempt from the right of access.

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

Retention of records

- 9.35 Regulations 9 and 10 of the Arrangements for Placement of Children (General) Regulations specify the length of time for which records are to be kept. These should in some cases be regarded as minimum periods rather than an inflexible rule. Responsible authorities should consider their policies on retention in relation to their records as a whole and to individual records, bearing in mind the purpose and value of retaining the various records.
- 9.36 Entries in the register must be kept until the child to whom the entry applies reaches the age of 23 or for five years after the death of the child before reaching that age.
- 9.37 The child's case record must be kept until the seventy-fifth anniversary of his date of birth or 15 years from the date of death in the case of a child who dies before reaching the age of 18.

The planning process

- 9.38 A plan to meet the child's needs may exist before a specific placement is considered either because of the degree of service provision to the child living in the family home, or because the child is moving from one planned placement to another. Where no plan exists the planning process must begin once a child in need has



been identified as being likely to require accommodation.

Contingency planning for the possible accommodation of a child while efforts continue to support the family and keep the child at home may achieve a more successful and less disturbing transition for the child. The planning process should comprise the following typical stages: *inquiry, consultation, assessment and decision-making*. These are described in the following paragraphs.

Inquiry

9.39 Inquiry consists of:

- (a) working with the child and his parents, other members of the family (and other involved adults) to obtain their wishes and views. It is at this stage that work to develop partnership with parents, to encourage continuance of the parental role and to help the child and his parents share in decision-making must start. Patterns of working and attitudes established now will in most cases influence all future work:
- (b) collecting information about the child and his family. The level of consultation will depend on the circumstances of the individual case. This will involve approaching relevant professionals such as the GP, school teacher, health visitor, police as well as relatives and family friends.

Consultation

9.40 When planning a placement it is essential to consult all those concerned with the child from the outset. The need for consultation should be explained to the parents and the child. The responsible authority should co-ordinate the involvement of all relevant agencies and individuals as well as the child so that a plan is drawn up which meets the child's individual needs.

9.41 Articles 26(2), 76(2) and 92(2) state that before making any decision with respect to a child whom it is looking after or proposes to look



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after or accommodate, the responsible authority should obtain and take account of the wishes and feelings of –

- (a) the child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him; and
- (d) any other person whose wishes and feelings the responsible authority considers to be relevant.

The child

- 9.42 The child's views should be sought in discussion with the child, subject to the child's understanding (see Articles 26(2)(a), 26(3), 76(3)(a) and 92(3)(a)). It will always be necessary for the child's views to be discussed, recorded and given due consideration before a placement decision is made and at every review meeting and at case conferences. The implications and options in the plan should be explained, discussed and if necessary, reassessed in the light of the child's views.
- 9.43 The more mature the child, the more fully will he be able to enter into discussion about plans and proposals and participate in the decision-making process. When older children are involved, and particularly in a case of self-referral, there may well be a different perception of the child's needs and interests as seen by the child and his parents. With young children, the social worker should make efforts to communicate with the child and discover his real feelings. All children need to be given information and appropriate explanations so that they are in a position to develop views and make choices.
- 9.44 Providing children with reassurance and helping them with their anxieties about a placement is essential to the success of a placement. Children should feel that they have been properly



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consulted, that their views have been considered and that they have participated as partners in the decision-making process. However, they should not be made to feel that the burden of decision-making has fallen totally upon them, nor should they be forced to attend meetings if they choose not to do so. The reasons for this choice should be explored so that they are given real opportunities to understand the good reasons for taking part in meetings. The possibility of the child being accompanied to a meeting by a person who is able to provide friendly support should be considered. Where the child has communication difficulties appropriate specialist provision will need to be made so that it is possible for the child to express views. This could include someone with the appropriate communication skills such as a sign language interpreter. For a child whose first language is not English, an interpreter should be provided if necessary.

The family

- 9.45 Responsible authorities should ensure that the child's family, parents, grandparents and other relatives involved with the child are invited to participate actively in the planning process and make their views known. The Children Order requires that parents (including) the unmarried father who may not have parental responsibility) should generally be involved in all planning for the child, and should be kept informed of significant changes and developments in the plan for the child. Similarly members of the child's family or others who play a significant part in the child's life should be involved in the making of arrangements for the child. Such sharing of information and participation in decision-making should be the norm subject only to the overriding best interests of the child.
- 9.46 How far the views of those noted above influence outcomes will vary from case to case. In child protection cases, parents' views should not be allowed to prevent the Trust from carrying out its duty to protect the child. If agreement cannot be reached with the parents on a voluntary basis, and lack of agreement makes it impossible to implement a suitable plan, it may be appropriate to apply for an order under Parts V and VI of the Children Order.



Others

9.47 Responsible authorities will need to use their discretion to consult all the relevant agencies and persons involved or previously involved with the child and his family before a child is looked after or accommodated (Articles 26(2)(d), 76(2)(d) and 92(2)(d)). The responsible authority should explain to parents and children why there is a need to consult and what the consultation process involves. It is essential that other agencies involved with the child are consulted about the needs of the child and his family so that the proposed plan is based on as complete an assessment as possible. These may include:

- the child's general medical practitioner;
- the appropriate Trust where it is proposed that the child (who is not looked after by that Trust) will be placed in its area;
- the appropriate education and library board (and school);
- any other person whose views the responsible authority considers should be sought, including extended family and previous carers.

9.48 Responsible authorities should seek to make contact with officers in other agencies who may be contacted when pre-placement inquiries are made and who will consult colleagues in the field involved with the child and report back. The parents and the child, if he is of sufficient understanding, should be informed of who is to be consulted and that the information gathered will be properly safeguarded. Existing carers, including foster parents, should already be involved in day to day planning for the child but a specific opportunity to contribute to formal planning or review considerations should be arranged.



Recording consultation

9.49 It is important that the information obtained during consultation is clearly recorded in writing on the child's case record so that someone unfamiliar with the case can see:

- what the considerations in arriving at decisions were;
- how the objectives of the plan have been decided upon; and
- how proposals for achieving these objectives have been reached.

In this way the decision-making process will be clear and will assist line management supervision of the case.

Assessment

9.50 With information gathered in the inquiry process it will be possible to make a full assessment of the child's needs, taking into account any services the responsible authority or other agencies may already be providing. The assessment should link into other assessment processes to ensure that the child's specific needs are not addressed in isolation. The Children Order provides that a Trust may assess a child's needs for the purposes of the Order at the same time as any assessment under:

- the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;
- the Education and Libraries (Northern Ireland) Order 1986;
- the Disabled Persons (Northern Ireland) Act 1989; or
- any other statutory provision.

9.5 Joint assessment in appropriate cases will help to ensure that the child's needs are not addressed in isolation. Working in collaboration



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with other agencies will help to identify how the responsible authority and other agencies can best meet the child's needs. The publication **Protecting Children: A Guide for Social Workers Undertaking A Comprehensive Assessment (HMSO 1988)** contains useful guidance which is applicable to all assessments of children by social workers.

Decision-making

9.52 The outcome of full consultation and assessment processes will determine whether there is a need to:

- provide services including, if appropriate, accommodation by voluntary agreement;
- take action to protect the child; this may include the provision of accommodation by voluntary agreement;
- make the child the subject of a compulsory court order.

9.53 Decision-making will entail:

- translating the assessed needs into aims and objectives;
- appraising the specific options for achieving these objectives;
- deciding on the preferred option and setting out the reasons for the decision.

9.54 The proposed plan will explain in detail how the objectives can be achieved covering such matters as – what sort of accommodation is needed; what other services for the child and services for parents or other members of the family or the child's carer need to be provided; what services might be provided by other agencies; what is the likely duration of the placement and what arrangements for sustaining family links, promoting contact and reunification of the family will be needed.



Contents of the plan for the child

9.55 The Looking After Children (LAC) forms establish a format for a child care plan (see also the considerations in regulation 4 of, and Schedules 1-4 to, the Arrangements for Placement of Children (General) Regulations). The plan should be recorded in writing and contain the social history of the child and his family in addition to the following information:

- the child's identified needs (including needs arising from special educational or health needs, religion, race or culture);
- how those needs might be met;
- aim of plan and timescale;
- proposed placement (type and details);
- other services to be provided to child and/or family either by the Trust or other agencies;
- arrangements for contact and reunification;
- support in the placement;
- likely duration of placement in the accommodation;
- contingency plan, if the placement is unsuccessful;
- arrangements for ending the placement (if made under voluntary arrangements);
- who is to be responsible for implementing the plan (specific tasks and overall plan);
- specific detail of the parents' role in day to day arrangements;



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- the extent to which the wishes and views of the child, parents and anyone else with a sufficient interest in the child (including representatives of other agencies), have been obtained and acted upon and the reasons supporting this or explanations of why wishes/views have been discounted;
- arrangements for input by parents, the child and others into the ongoing decision-making process;
- arrangements for notifying the responsible authority of disagreements or making representations;
- arrangements for health care (including consent to examination and treatment);
- arrangements for education; and
- dates of reviews.

Agreements

9.56 Regulation 3 of the Arrangements for Placement of Children (General) Regulations which governs the making of arrangements (the plan) requires a responsible authority to draw up a plan in writing. Where a child is not in care the responsible authority should reach agreement on the plan with the parents, other person with parental responsibility, or if there is no such person, the person caring for the child. Regulation 4 governs the considerations on making and contents of arrangements and requires that, where practicable, the plan should include details of the matters specified in Schedule 4 to the regulations.

9.57 Where a child is provided with accommodation by voluntary agreement the plan should form the basis of a written agreement between the responsible authority and the parents or if there is no such person, the person caring for the child prior to the provision of accommodation. The agreement must set out the role of the parent in the day to day life of the child. This will have been discussed and



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agreed in negotiation between the responsible authority and the parents with the involvement of the carer.

- 9.58 Regulation 5(3) of the Arrangements for Placement of Children (General) Regulations requires the responsible authority to produce a written copy of the agreement which incorporates the detail of the plan for the child and the arrangements made. There is no requirement for the agreement to be signed, but in cases where the parent, although consenting to the plan does not wish to sign the agreement, the responsible authority will wish to sign the document to indicate its commitment to the plan for the child. A copy of the agreement should be sent to the person with whom it is made. The child should also receive a copy in a form appropriate to his understanding. A child of 16 or over should be encouraged to sign the agreement when he has referred himself to the Trust and is to be provided with accommodation by the Trust under Articles 21(3), (4) and 22(5). Again, there is no requirement that the agreement be signed.
- 9.59 In drawing up agreements, responsible authorities should have regard to Article 22 which sets out the powers of persons with parental responsibility in consenting to or objecting to accommodation arrangements. An agreement should include arrangements for the child leaving accommodation, eg a period of notice to allow time for preparation of the child for this event and to ensure that the child's wishes and feelings are taken into account. An agreement should also include a statement of the steps to be taken if one party decides to change the agreement.
- 9.60 Although the regulations do not require a Trust to reach agreement on the planned arrangements for a child in its care, it is the intention, so far as is practicable, and in the child's best interests that arrangements should be made in partnership with parents. Where the interests of the child or the non co-operation of the parents require that initial arrangements are made without agreement, part of the planned work should be to try to establish a working relationship for the future.



Notification

- 9.61 It is essential that those involved in the decision-making process are notified of the decision (regulation 5 of the Arrangements for Placement of Children (General) Regulations) so that they may have an opportunity to make any necessary arrangements for their involvement in the placement or to make their views on the placement decision known. Careful note should be taken of the provision in regulation 5(3) about the notification of information to third parties. Such notification should only contain the amount of information it is necessary to divulge. The responsible authority will need to identify others who were not involved in the decision-making process but who will be involved with the child and have a need to know of the placement arrangements. Consideration should be given, in the light of circumstances of an individual case, of the need to notify people who have been involved in the child's life but who are not specified in regulation 5.
- 9.62 The responsible authority should notify the Trust in whose area the child is placed, providing sufficient information for the Trust to fulfil its duties in respect of registration of placements. The responsible authority should notify the office in other agencies already identified and consulted about these placements (see paragraph 9.48). These officers should be asked to disseminate the information as appropriate to their colleagues in the field who are or will be involved with the child including, in those cases where a child protection case conference has been consulted, the members of the case conference.
- 9.63 Once the plan has been decided, it should be notified in writing to the parents, the child, other carers, representatives of other agencies involved with the child and others with a sufficient interest in the child. The responsible authority's social worker should explain personally to the parents and the child what the plan entails and the reason for reaching the decisions therein. This should be done in addition to any explanations given during the assessment and planning process.



9.64 Where a child or parent has only a limited understanding of English, an interpreter may be required. Sensorially impaired children and adults may need a specific format of any formal written notification. For blind or visually impaired people it could be Braille, on tape or in large print. Deaf or hearing impaired people have a range of communication needs depending on the type of deafness and the age of onset. Appropriate provision should be made for a child or parent with such communication difficulties. This may range from making available someone who is a clear speaker with understanding and knowledge of the speech and language difficulties of hearing impaired people, to an accredited sign language interpreter. Interpretation resources will also be required for a child who uses the Makaton system.

Format of notification

9.65 The written notification of the agreement (or of the plan if no agreement has been reached) should include:

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

9.66 Where a child is provided with accommodation by voluntary agreement, the notification should set out the arrangements for ending the placement. In exceptional circumstances where a child is in care or subject to an emergency protection order, the carer's name and address may be omitted from the notice (ie when the Trust has



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reasonable cause to believe that informing a person would prejudice the child's welfare (article 29(4)). Where it is necessary to take such an exceptional step the circumstances and reasons should be recorded on the child's case record and notified to the parent in writing. The letter of notification should also refer to the representations procedure which each Trust is required to set up (see Chapter 12). It will be helpful to enclose an information leaflet so that the parents, the child and others notified of the arrangements are aware of the facilities for making representations or complaints.

Health care

- 9.67 Responsible authorities should act as good parents in relation to the health of children looked after or accommodated by them. Health care implies a positive approach to the child's health and should be taken to include general surveillance and care for health and developmental progress as well as treatment for illness and accidents. The health care of all children looked after by Trusts or accommodated by voluntary organisations or in privately run children's homes should be provided in the context of the child health surveillance programmes in the area which are designed to provide child health surveillance and promote the physical, social and emotional health and development of all children.
- 9.68 Children in homes are particularly vulnerable as they frequently have not received continuity of health care. Staff should play an active role in promoting all aspects of a child's health. Health care covers both physical and mental health and should not be restricted to treatment of illness and accidents. It should include education about alcohol and substance abuse, sexual matters, and HIV/AIDS. Another example of promoting the child's health would be to ensure that pocket money jobs such as paper-rounds are appropriate to the child's age and strength.
- 9.69 If a child's stay in a home is likely to be short, or if the home is near to his own home, it is preferable for the child to continue with his own GP. If possible there should be scope for the child to have some choice of GP. In particular children should be able to have a doctor



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of their own sex if they so wish. In these circumstances the school should still ensure that such check-ups have, in fact, taken place.

- 9.70 It is often found that children who have had frequent disruption and disturbance in their life have health care needs which have not been detected or have been ignored. In order that deficiencies in past medical care may be remedied, residential social workers need to adopt a very vigilant attitude towards the health of children in homes. Their health should be carefully and continuously monitored and medical advice should be sought promptly when causes for concern are identified. The parents and school will therefore need to act in partnership.
- 9.71 There is a need for close co-operation and effective communication between those with parental responsibilities, the staff in the home, the GP, the health visitor, the school health service and any specialist services which may be required if proper health care is to be provided for a child. Some children will have conditions such as diabetes, epilepsy or haemophilia which will require special medication, or coeliac disease where a special diet is required. Staff in the home need to be fully informed about such conditions. Other children may have a mental or physical disability and have special needs which require to be met. Advice should be obtained from medical professionals on medical care for all such children. Residential social workers should take responsibility for ensuring that children receive proper health care.
- 9.72 A health record must be kept at the home in respect of each child. It should build on earlier records. If these are not available, efforts should be kept up to date with information about health needs and development, illnesses, operations, immunisations, allergies, medications administered, dates of appointments with GPs and specialists. When the child leaves the home the records should be made available to whoever is to have the subsequent care of the child. Records should not record the antibody status of a child who is HIV positive. This information should be held on a need to know basis only, and responsible authorities should ensure that staff in homes are aware of issues surrounding HIV and AIDS and take



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precautions in all cases to avoid situations which could result in the transmission of HIV infection.

- 9.73 In order that the wellbeing of the children in the home may be safeguarded, all medications including those which can be obtained without prescription should be stored and handled safely. Children of 16 and over should in general be entrusted with the retention and administration of their own medication providing it can be held securely in a locked drawer or cabinet in which their personal possessions are normally kept. With this exception, all medications should be kept in a secure place eg suitable locked cabinet (regulation 9(1) of the Children's Homes Regulations refers). The administration of medicinal products should be recorded in writing on each occasion in a central register and on the child's individual record. The home should have laid down procedures for the administration of medications. These will vary from home to home depending on the characteristics of the children accommodated.
- 9.74 Regulation 9(2) of the Children's Homes Regulations provides that where a medicinal product may not be safely self-administered by a child in a home it may only be administered by a member of the staff of the home or by a doctor or nurse.
- 9.75 Regulation 7 of the Arrangements for Placement of Children (General) Regulations requires responsible authorities, when drawing up a plan for a child, to ensure that the child is provided with health care, including any specifically recommended and necessary immunisation and any necessary medical and dental attention. Where necessary, this will include registering the child with a GP and entering into a contract with a general dental practitioner to enable the child to be offered the full range of NHS dental treatment. This contract will need to be renewed annually in the case of children with a disability and those with special needs, consideration must be given to continuity of special care. Use of health services should be the same for the child being looked after or accommodated as it is for any other child. An informed and sensitive approach is especially necessary for these children since they will often have suffered early



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disadvantage and may be at risk because they have not received continuity of care.

- 9.76 The responsible authority's plan for the child should include health care arrangements which should be kept under review (see regulation 6 of, and Schedule 3 to, the Review of Children's Cases Regulations). Responsible authorities should make arrangements for professional advice to be available to interpret health reports and information, assist in preparing and reviewing the arrangements for health care and assist in decisions relating to the child's care. One way of providing for this would be to agree that a designated doctor should undertake this work. It is no longer necessary to appoint a medical officer to a children's home.
- 9.77 Responsible authorities should be alert to the health care needs of children from ethnic minority groups and make sure that they receive appropriate health care. Social workers should put carers in touch with a named health professional who can provide carers with an understanding of particular health conditions and help them respond appropriately to such conditions.
- 9.78 Responsible authorities are required by regulation 7 of the Arrangements for Placement of Children (General) Regulations 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 but see also paragraphs 9.81-9.84). In the case of an immediate placement, the responsible authority should arrange for a health assessment as soon as possible thereafter. Responsible authorities should liaise with GPs in order to ensure that they are aware that the written medical report needs to be a comprehensive health profile of the child. The health assessment may be an initial assessment when a child is first placed or may be a reassessment in the case of a child who has been placed for some time or who has been placed again after an interval. 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 while looked after or accommodated. It should be noted that the regulations apply to all



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the children looked after by Trusts including those in non-residential care. Responsible authorities are required to give consideration to the health issues set out in Schedule 2 to the regulations.

- 9.79 There is a requirement in regulation 6 of the Review of Children's Case Regulations for medical examination and written health assessment of children during placement to take place at least once in every period of six months up to the child's fifth birthday, and at least once in every period of twelve months thereafter. It is recommended that medical examination and written health assessment of children under school age should be guided by the schedule of development surveillance prescribed by the Trust in which the child is placed. It is also recommended that medical examination and written health assessment should take place prior to each change of school or at intervals specified in the care plan for the child. The care plan may also specify additional requirements in relation to medical examination and written health assessment which take into account the particular health needs of individual children.
- 9.80 These requirements provide only a basic framework for practice. Arrangements for ensuring that children receive proper health care during placement will involve the responsible authority, parents, the child, other carer, GP, health visitor, the school health service and, depending on the child's needs, specialist and domiciliary services. Responsible authorities should establish arrangements to ensure that information relating to a child's health is communicated to all the health professionals who are involved with the child.

Consent to examination or treatment

- 9.81 It is vital that staff in the home are able to arrange medical or dental treatment for a child without delay or confusion. The most convenient arrangement is for the parent, or those with parental responsibility, to agree that staff in the home may arrange or routine treatment or minor procedures but that in the case of major procedures or operations parental consent will first be sought except in an emergency where any delay would be dangerous. Arrangements should be made to ensure that parents, or those with



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parental responsibilities, are routinely kept informed of their child's state of health.

- 9.82 Responsible authorities must have clear policies and procedures in relation to consent to the medical examination and treatment of children (with particular reference to emergency or urgent treatment) and should make these known to the child's carers. The arrangements for this should be clearly set out in each plan or agreement. These will vary according to whether a responsible authority does or does not have parental responsibility for the child. The arrangements should enable carers to seek and obtain any specifically recommended immunisations or medical or dental treatment for a child, without delay or confusion. There may be occasions when parents refuse consent to a medical examination or treatment and the child is not of sufficient understanding to make the decision. In such cases where a child is in care and the Trust has not acted to restrict the parents' exercise of parental responsibility under Article 52(3)(b) in this respect then they must do so to comply with the Review of Children's Cases Regulations and to ensure that necessary medical examinations and treatment are made available to the child. When a child is not in care and the parents refuse consent the Trust may have to resort to obtaining an appropriate court order including for example an Article 8 specific issue order, an emergency protection order or child assessment order.
- 9.83 The relevant individual health professionals should be aware of and co-operate with the arrangements which are made. The most convenient arrangement is likely to be where a carer has delegated authority from the parent or the Trust for routine treatment and minor procedures. If the parent holds the child's health record, it may be appropriate for it to be given to the carer for the duration of the placement. The need for operations and major treatment should be discussed with parents, and their consent obtained subject to the exercise by a Trust of its powers in Article 52(3)(b) in respect of a child in care. Parents should be kept informed of their child's state of health and it should be agreed in each case whether this should be done by the carer or the responsible authority.



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9.84 Children of 16 and over may consent or refuse medical treatment on their own behalf. Children under 16 may also be able to give or refuse consent if they have capacity to understand the nature of the treatment. It is for the doctor to decide this. Children who are judged able to give consent cannot be medically examined or treated without their consent. The responsible authority should draw the child's attention to these rights to give or refuse consent to examination or treatment. There is no prohibition on placement if it is impossible to persuade a child to be medically examined. But it is a responsibility of the responsible authority, and part of the carer's task, to help and encourage young people to understand the importance of health care and to take responsibility for their own health.

Education

9.85 Schedule 3 to the Arrangements for Placement of Children (General) Regulations sets out the considerations about a child's educational needs which form part of the planning process. Children who are looked after or accommodated have the same rights as all children to education, including further and higher education and to other opportunities for development. Some children's perception of their ability may have been undermined and their true potential may not be immediately evident. As children who may be damaged and vulnerable, they often need extra help and encouragement and opportunities to compensate for early deprivation and for educational disadvantage arising from changes of placement while in care. In planning for a child, responsible authorities should have regard to the importance of continuity of education and of taking a long-term view of a child's education, providing educational opportunities and support and promoting educational opportunities and support and promoting educational achievement. It is also important to recognise the value of peer group relationships made in educational settings. Responsible authorities have the responsibility of acting as good parents in relation to a child's education. Expectations should be realistic, but children must be helped and encouraged to achieve their full educational potential and equip themselves as well as possible for adult life.



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- 9.86 Encouragement and support from parents improves any child's performance. In instances where such support has previously been lacking it is all the more important for care staff in homes to compensate by giving a young person every assistance. While education is primarily the responsibility of teachers, care staff in the home have a vital contribution to make. They should observe the child carefully and develop a sound understanding of his strengths and difficulties. They should recognise and applaud the child's achievements and encourage pride in any successes. Where the child encounters disappointments staff should provide sympathetic support and encouragement. They should be alert to the possibility of the child being bullied or otherwise discriminated against at school and be prepared to deal with this in conjunction with the school.
- 9.87 Residential social workers should regularly discuss with teachers any learning or other difficulties a child is experiencing to ensure that plans are made for dealing with them at an early stage (conversely if a child has a particular talent, measures will need to be taken to ensure that the talent is fostered). Children with learning difficulties such as dyslexia need particular assistance. Residential social workers should work together with teachers to ensure that a child with special educational needs has access to specialist services provided by the education and library boards. Where English is not a child's first language staff should ensure that the language tuition received at school is supplemented by appropriate support in the home through help with reading and writing and opportunities to practise conversation.
- 9.88 It is most important that residential social workers should forge good relations with schools and colleges of further education and maintain close contact. Staff should attend such social events as schools fairs, sports days and concerts. Unless parents do so themselves, a member of staff should always attend parents' evenings to discuss the progress of each child with teaching staff and should report the outcome to the child.



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- 9.89 Children should be encouraged to do homework. They cannot be expected to study in a room where a television is on or where other people are talking or playing. They will need at a minimum a table and chair and a quiet environment. Provision of study time and appropriate facilities such as access to reference books should be increased when children are taking public examinations. Those carrying on homes should ensure that an appropriate selection of books and other reading material is available in the home. Staff should encourage young people to join the local library.
- 9.90 If a child is suspended from school the responsible carer must be given written notification of the reasons for, and the period of, the suspension and be invited to visit the school to discuss the suspension. A child can only be expelled after a period of suspension and after consultation between the responsible carer, the Principal, the Chairman of the Board of Governors and a representative of the education and library board or the council for Catholic Maintained Schools, as appropriate. The consultation will also consider future educational provision for the child. The possibility of an appeal against any expulsion should also be considered. The responsible carer should, in conjunction with the parents where appropriate, participate fully in assisting a child to return to school after a suspension. In the case of an expulsion the task would be, in association with the education and library board's Education Welfare service, to find an alternative school placement, and, where appropriate, the provision of home tuition.
- 9.91 It is sometimes too readily accepted that further or higher education is not appropriate for young people in homes. This belief needs to be countered forcefully. Children who have the ability should be encouraged most strongly to continue their education beyond compulsory school age. Staff in homes should emphasis the value for education and promote the merits of using opportunities for further education and training.
- 9.92 If the language or form of language that a child has commonly spoken with his parents or those caring for him is different to the language commonly spoken in the home, those carrying on the home



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should make suitable arrangements to ensure that the child has the opportunity as far as is practicable to retain and develop this language or form of language in accordance with his wishes.

- 9.93 Regulation 5 of the Arrangements for Placement of Children (General) Regulations requires responsible authorities to notify the appropriate education and library board of placement. Arrangements for liaison and co-ordination should aim to ensure that information reaches those who need it in good time especially in school. Special care and support is needed where a change of school cannot be avoided. Responsible authorities should ensure that the carer's role and responsibility towards the child are understood by the school. In many cases and in day to day matters, carers will assume the parental role in relation to the school but there will be cases where parents continue to exercise their parental role. It will be up to the social worker to clarify such arrangements with the school if any confusion seems likely to arise, in order to avoid loss of confidence and co-operation.
- 9.94 Carers have an important contribution to make to a child's educational progress and development. They are in a good position to observe and to help identify and assess both the child's real capabilities and any difficulties, fears and deficiencies in attainment. Carers will need to be supported in this role. 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 explored and help provided, including where appropriate, arrangements for access to specialist educational services.
- 9.95 Trusts should collaborate with education and library boards to safeguard the interests of children with statements of special educational needs under the Education and Libraries (Northern Ireland) Order 1986 and in accordance with sections 5 and 6 of the Disabled Persons (Northern Ireland) Act 1989. A Trust should ensure that the parent's rights are exercised in respect of requests for assessment, monitoring and reviews and should act



in consultation with parents and carers, regardless of whether it has parental responsibility.

- 9.96 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. Even when 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.
- 9.97 Where a Trust proposes to place a child in an establishment at which education is provided for children accommodated there. Article 47 places a duty on the Trust to consult the appropriate education and library board prior to the placement and inform it of the arrangements that have been made for the child's accommodation. When the child ceases to be accommodated the Trust is required to inform the appropriate education and library board to ensure that appropriate educational facilities are available for the child. The appropriate education and library board means the education and library board within whose area the establishment is; or where the child has special educational needs and a statement of his needs is maintained under Education and Libraries (Northern Ireland) Order 1986, the education and library board which maintains the statement.

Employment and training

- 9.98 Regulation 10 of the Children's Homes Regulations requires those responsible for homes to assist with the making of, and gives effect to, arrangements made with respect to the continued education, training and employment of young people over statutory school age accommodated in the homes. Staff in homes have a very important role to play in preparing young people for working life and in assisting them to obtain and remain in suitable training or employment. As children approach school leaving age arrangements concerning further education, training and employment will figure increasingly in their care plans. Staff in the home should help make and give effect to these arrangements. They should be concerned to ensure that



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any employment, training or work experience provides and environment which meets health and safety requirements and is legal.

- 9.99 Children in homes may be expected to experience more than usual difficulties in finding employment or training and may often need support and encouragement beyond that which might normally be given by a caring parent. The task of helping children obtain suitable training, education or employment may be one of the most difficult and time consuming undertaken by staff. They will need to make rigorous efforts to counter the low self esteem and lack of self confidence which is often found in children in such homes. Children may require reassurance that finding a job or training is not something they have to tackle alone but that they will receive assistance and support from the staff in the home.
- 9.100 Children will not necessarily know what they want to do when they reach school leaving age. It is one of the responsibilities of staff to explore ideas with them and to give them help in obtaining information about as wide a range of education, training or work opportunities as possible. Discussions between staff, school, children and (where possible) parents about finding employment should have started well before school leaving age. Staff will need to ensure that they are well acquainted with the child's interests and aptitudes if they are able to guide them effectively in their consideration of the various options open to them.
- 9.101 For children who choose to enter work rather than further education, it is important that staff in homes have good contacts with careers advisers, job centres, employment agencies and local employers. They should have accurate, up to date knowledge about local employment prospects. Staff should provide help with the completion of application forms and assist with preparation for interview. Care should be taken to ensure that children are able to arrive in good time for interviews, that they are appropriately dressed and groomed and that they are sent off with words of encouragement.



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9.102 Not all children will achieve the position of their choice on leaving school. However, all are required to be engaged in work, education or training (or a combination of them) full time. Staff need to be aware of the range of options available and encourage children to see the desirability of acquiring the appropriate skills, attitudes and qualifications, including the NVQ. Some young people will need sympathy and caring support to cope with initial disappointment and to adjust their original aims should these prove to be unrealistic. Many will also need help to adapt to and cope with a new lifestyle as student or worker.

9.103 Staff will need to familiarise themselves with current procedures for registering for employment and for making claim for benefit. They should respond to requests to accompany young people to interview with Government agencies and offer assistance with completion of forms where this would be helpful.

Religion, culture and racial background

9.104 A child's religious and cultural background and ethnic origins are important factors for consideration in any placement decision. For example, placement with a family of similar religious or ethnic background is most likely to meet a child's needs and to safeguard his welfare most effectively. Such a family is most likely to be able to provide a child with continuity in life and care and an environment which the child will find familiar and sympathetic and in which opportunities will naturally arise to participate in a way of life which is familiar to the child.

9.105 The importance of religion as an element of culture should never be overlooked. To some children and families it may be the dominant factor so that the religion of foster parents, for example, may in some cases be more important than their ethnic origin. Where it has not proved possible to make a replacement which entirely reflects the child's religion or race an independent visitor could provide a link with the religious or racial background (if the criteria for appointing an independent visitor apply).



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- 9.106 Regulation 11 of the Children's Homes Regulations requires that each child is, as far as is practicable, to have an opportunity to attend such religious services and receive such instructions as are appropriate to the religious persuasion to which the child may belong. The regulation also requires that the child be provided with facilities for religious observance for example special diets and clothing.
- 9.107 Persons in charge of children's homes should ensure that inquiries are made into the religious and cultural background of each child as part of planning the child's admission and settling in. Special efforts must be made to ensure that important aspects of a child's religious and cultural heritage are not lost. Inquiries should be made of the parents, those who looked after the child previously, persons in contact with the child and the Trust responsible for arranging accommodation. This information should be recorded in the child case record.
- 9.108 Facilities should be provided to allow the child to practise his religion in a manner appropriate to the child's age. It may be necessary to help a child make contact with a local church or group of adherents to the child's religion. Great sensitivity may be needed and the child's own family should be asked to assist, if the child is in close contact with his own family it is possible that the child might join the family for religious services. A number of voluntary homes and schools have been founded by particular religious groups. It is important that parental agreement is sought by the Trust before placing a child of a different faith in such establishments. Where this does occur, the Trust should ascertain what arrangements will be made to allow the child to practice his own religion.
- 9.109 A child may need privacy in order to pray during the course of the day, or to build a small shrine somewhere within the home. As such requirements may impact on other children careful consideration will be necessary. An ideal arrangement may not be possible but it is essential that the need is recognised and that the child feels that respect is being given to his religion.



CHAPTER 10: REVIEW OF CHILDREN'S CASES

- 10.1 This chapter deals with the review of care plans for children who are looked after by a Trust or accommodated by a voluntary organisation or a privately run children's home. The Review of Children's Cases Regulations (like the Arrangements for Placement of Children (General) Regulations) apply to Trusts which are looking after children and to voluntary organisations and privately run children's homes which accommodate children not looked after by a Trust. For the purpose of this guidance, "review" means review under the Review of Children's Cases Regulations. "Responsible authority" in this chapter means a Trust, voluntary organisation or person carrying on a privately run children's home. Where the guidance deals with a matter which is not equally applicable to all groups, this is made clear. Unless otherwise stated, any reference in this chapter to a regulation means the Review of Children's Cases Regulations.

What is a review?

- 10.2 A review is a continuous process of planning and reconsideration of the plan for the child. Review will include a number of components leading to meetings held to discuss the plan which has been drawn up for a child who is being looked after or accommodated by a responsible authority. This will require consultation and the gathering of information on an ongoing basis, discussing that information and making decisions to amend the plan as necessary. Any meeting which is convened for the purpose of considering the child's case in connection with any aspect of the review of that case falls within the scope of the Review of Children's Cases Regulations.

Requirement to review and frequency

- 10.3 Regulation 2 places a specific statutory duty on the responsible authority to review the case of a child who is looked after or accommodated, in accordance with the regulations. Regulation 3 sets out the maximum intervals between reviews. The first review should take place within two weeks after the date on which the child begins to be looked after or is provided with accommodation. In the



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case of a child looked after by a Trust this will bring together the assessment and planning that has been taking place since the child was identified as being in need of the Trust's services. The second review should take place not more than three months after the date of the first review. Thereafter, subsequent reviews should take place at intervals of not more than six months after the date of the previous review.

- 10.4 The frequency of reviews required by the regulations is the minimum standard and a review of the child's case should take place as often as the circumstances of the individual case requires. If the need arises for substantial changes to the plan the next review should be brought forward. Parents and children should be consulted on a regular basis about the need for additional reviews. Any request for an additional review from a parent or a child should be given serious consideration.

Short-term placements

- 10.5 Regulation 11 allows for a defined series of short pre-planned placements (eg for respite care or "staying contact") to be treated as a single placement for the application of the regulations and those relating to specific placements. The requirements of the Review of Children's Cases Regulations apply, but need not be repeated for each episode of accommodation so long as the conditions in regulation 11 are met. The conditions in regulation 11 are:

- all the periods are included within a period which does not exceed one year;
- no single period is for a duration of more than four weeks; and
- the total duration of the periods does not exceed 90 days.

All the placements should take place with the same carer for a family placement and at the same establishment for a residential



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placement. Similar provision is made for short-term placements in the regulations relating to specific placements.

A system for reviews

- 10.6 Each responsible authority will wish to consider the Looking After Children (LAC) forms or, exceptionally, revise its present arrangements to ensure that it provides a system for review of children's cases which will satisfy the requirements of the Children Order and regulations 4, 8, 9 and 10 as described below. In revising existing arrangements or establishing new procedures, responsible authorities should ensure that their review system provides for the implementation, planning and review material and for:
- the full participation of both children and parents in the decision-making process;
 - a structured, co-ordinated approach to the planning of child care work in individual cases; and
 - a monitoring system for checking the operation of the review process.
- 10.7 Regulation 4 sets out how cases are to be reviewed and requires that the arrangements be in writing and made known to children, parents, other persons with parental responsibility, other persons whose views the responsible authority considers relevant and those involved in conducting reviews of children's cases (regulation 4(1)). The responsible authority is required by regulation 4(2) to co-ordinate review action and by regulation 4(3) to appoint an officer to achieve that co-ordination. The responsible authority need not make a special appointment to deal with these duties. For example in the case of Trusts, it is suggested that senior officers should be designated to fulfil this role in each management area of the Trust. These officers could combine this role with their other duties.



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Preparation for a review

- 10.8 Before a review is arranged the field social worker responsible for the case, in discussion with his line manager, should identify who should be invited. Only in exceptional cases should a parent or a child **not** be invited to a review meeting. In such cases the reasons for this decision should be recorded. The first review meeting is the occasion on which the planning process is most clearly illustrated as being inseparable from the review process. It is the first opportunity to confirm formally that the plan is meeting the child's needs. Those to be invited should include those who have been consulted (including the child and his parents) in drawing up the initial plan and who may need to contribute to the review.

Consultation

- 10.9 As with planning, it is essential that there is full consultation with all relevant individuals before the review meeting is held. There should be a written record kept on the child's case record of the results of the consultation exercise before each review meeting. Appropriate provision should be made for children and parents with communication difficulties or whose understanding of English is limited. Articles 26(2), 76(2) and 92(2) state that before making any decision with respect to a child looked after or accommodated by a responsible authority, the responsible authority should obtain and take account of the wishes and feelings of:
- the child (subject to his age and understanding and so far as this is in the child's best interests);
 - the child's parents;
 - any person who is not the child's parent but who has parental responsibility;
 - any other person whose wishes and feelings the responsible authority considers to be relevant.



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Any other person may include:

- the child's current carer (foster parent or residential social worker);
- the independent visitor (if one has been appointed);
- the child's general medical practitioner (GP);
- the appropriate Trust where it is proposed (or it is the case already) that the child will be looked after in its area;
- the appropriate education and library board;
- the child's teacher (in relevant cases);
- any other person whose views the responsible authority considers should be sought (for example, a representative from a voluntary agency, RUC care unit, housing officer or community leader).

(See Chapter 9 paragraphs 40-49 which contain guidance on consultation in relation to the Arrangements for Placement of Children (General) Regulations which is equally applicable to the Review of Children's Cases Regulations).

10.10 Where it is considered that written views or reports will be adequate these should be sought and obtained in time for the review. Any relevant information which needs to be circulated before the meeting should be sent out with the agenda (see paragraph 10.12 below). Arrangements should already be in place for the continuous collection of information as part of the planning system rather than as a separate one-off exercise for a review.

Who chairs a review?

10.11 A review should be chaired by a member of staff above senior social worker level. The field social worker responsible for the child's case



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and that person's supervisor should be in attendance. The intention is that the role of the chairperson will bring a degree of oversight and objectivity to the monitoring of the responsible authority's practice and decision-making in relation to the plan for the child.

Agenda

- 10.12 It will be useful to have a checklist or agenda of the issues for discussion at a review meeting which is circulated in advance to those attending including the parents and the child. Items for the agenda will arise out of the considerations for discussion in paragraphs 10.17-10.18 below. This will help to ensure that no issues are overlooked and that the people attending the meeting are prepared to discuss and consider the relevant issues. The use of a list or agenda should not become exclusive or inhibiting. Those present should be free to raise issues they consider to be important.

Who should attend a review?

- 10.13 Regulation 7(2) requires the responsible authority, where it considers it appropriate, to involve the child and his parents in review meetings. The involvement of the child will be subject to his understanding. The possibility of a child being accompanied to a review meeting by a person who is able to provide friendly support should be considered. Where a child's welfare would be prejudiced by his parent's attendance at the same time as the child, separate attendance may be arranged. The attendance of the child and his parents at review meetings will be the norm rather than the exception. It is expected that the parents and the child (if he is of sufficient understanding) will be present at the whole of the review, but this will depend on the circumstances of the individual case. The involvement of the parents and the child in review meetings is in line with the basic philosophy of the Children Order in relation to the participation and wishes and feelings of the child and his parents and the spirit of partnership between responsible authorities and parents.
- 10.14 The flexibility given to responsible authorities in the regulations regarding the attendance of the child and parents at review meetings



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recognises that in a few cases their attendance will not be appropriate or practicable. This may be the case if there is a clear conflict of interests which might militate against the attendance of either the child or the parents or both. However, the fears or inhibitions of professionals should not be the reason for excluding a child or his parents from a review. Alternative arrangements should be considered. Any decision to exclude the child or the parents from a meeting (or part of a meeting) should be discussed and agreed with the chairperson. If a parent or child is excluded from a review meeting, a written explanation should be given with a copy placed on the child's case record or other arrangements made for their involvement in the review.

- 10.15 In addition to the parents and child, the child's carer should be invited. Other people with a legitimate interest in the child should also be invited if they have a contribution to make eg the child's GP, health visitor, child psychologist, school teacher, residential social worker, foster parent, independent visitor (if appointed) or ethnic minority representative. The attendance of such people should always be discussed with the child (if of sufficient understanding). It may be appropriate where the contribution from such people is strictly factual for their contribution to be provided in writing. If a long-term plan is in place, a small group (those consistently and constantly involved with the child) should be identified as essential attenders at subsequent review meetings. In the majority of cases, the group will consist of the social worker, the child, parents, the chairperson and the carer (if different from the parent).

Venue for a review meeting

- 10.16 Meetings should be arranged at a place and time which will be the post likely to provide an atmosphere conducive to relaxed participation of all those attending. Particular regard should be paid to the needs of the child who should always be asked for his views about the venue. Arrangements should be made to secure the attendance of those identified as necessary to the particular review and allow series discussion and planning to take place. Consideration should be given to assisting parents with travelling



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costs or the provision of other support, such as a child minder, if there would otherwise be difficulty for a parent in attending a review (Article 30 may be relevant).

Matters for consideration in a review

- 10.17 The primary matter for consideration at a review is the plan for the welfare of the child (under the general welfare duties placed on responsible authorities by Articles 26, 76 and 92). At the first review this will be done by examining and confirming the plan, with or without amendments. Subsequent reviews will be occasion for monitoring the progress of the plan and making decisions to amend the plan as necessary in the light of changed knowledge and circumstances. As the reason for planning and review is to safeguard and promote the welfare of the child the matters for consideration when planning and reviewing a case are nearly identical. After the first review, a review should always include consideration of progress made since the previous review – whether the goals and tasks set have been achieved; and if not, why not and what action is needed.
- 10.18 Schedule 2 to the regulations provides a checklist of matters for consideration at a review. These are the minimum requirements. In addition, the review must consider matters specified in the Children Order relating to the welfare of the child. Other matters will arise in individual cases which it is not possible to cover in a list of general application. The matters covered by Schedule 2 and the relevant statutory provisions are:
- an examination of the responsible authority's plan for the child in relation to the wishes and feelings of the child and having regard to his understanding;
 - an examination of the responsible authority's plan for the child in relation to the wishes and feelings of the parents;



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- Whether the plan fulfils the responsible authority's duty under Article 26(1), 76(1) or 92(1) to safeguard and promote the child's welfare;
- where the child is in the care of a Trust, whether or not the care order can be discharged or varied to a lesser order;
- whether the placement continues to be appropriate;
- the views of the child's carer;
- whether the plan makes necessary provision for the child's religious persuasion, racial origin and cultural and linguistic background;
- where a child is looked after, whether the plan takes account of the duty under Article 27(7) to enable the child to live with a parent, other person with parental responsibility, relative, friend and, where the child is in care, a person in whose favour a residence order was in force immediately before the care order was made, or other person with a legitimate interest in the child;
- the arrangements made for contact and where the child is looked after by a Trust with regard to the duty on the Trust in Article 29 to promote and maintain contact between the child and his family;
- where a child is looked after, the views of an independent visitor if one has been appointed, and if not whether to appoint one;
- whether the plan takes account of any particular needs the child may have, eg if the child has a disability;
- the arrangements made for the child's health (including consent to examination or treatment);



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- the arrangements made for the child's education;
- the arrangements, if any, for financial support of the placement;
- Where the child is provided with accommodation by voluntary agreement, whether or not the arrangements for the involvement of the parents in the child's life are appropriate; whether the social worker needs to encourage greater exercise of the parents continuing responsibility to the child; whether or not there is still a need for accommodation or whether another sort of service would be more appropriate, or whether there is a need (for a Trust) to take care proceedings;
- reunification of the child with his parents and family;
- where a child has been in an agreed placement (not in care) for some time, whether the existing plan ensures that the child and the carer have an adequate sense of stability, whether the carer should seek a residence order, for example; and
- where appropriate, arrangements for aftercare.

Report of a review

10.19 Regulation 10 requires that a written record of each review is drawn up and put on the child's case record for further reference. The record of the review should have attached to it the results of the consultation exercise, including any written reports submitted. It should be clearly noted whether the child and parents were invited to the review, if they were not, the reason why not, whether they attended and what views they expressed on each of the agenda items. Any dissenting opinion should be recorded with an explanation of the rationale of decisions taken. The chairperson should check the record of the review to ensure that an accurate,



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comprehensive record is placed on file and, in particular, that any necessary action has been correctly identified and tasks allocated.

Notification

- 10.20 Regulation 7(3) requires that the child, his parents, those with parental responsibility and other persons considered appropriate are notified of the result of the review and decisions taken in consequence of the review. It may be necessary to notify third parties of the result of the review. Care should be taken to provide only information which the third party needs to know.
- 10.21 The notification of the result of each review meeting should be a written summary of the main points of the written report of the review which makes clear who is responsible for implementing decisions arising from the review and the relevant timescales. The field social worker responsible for the case should supplement this written notification by explaining in advance wherever possible to the parents and the child the decisions taken at the review meeting and the reason for these decisions, even if the parents and child were present for all or part of the meeting. Where they were not present, it will be particularly important to do this. It is recommended that this notification is sent no later than 14 days after the review has been held. The notification should indicate whom the child or parent should contact if there is disagreement about any of the decisions taken.

Implementing decisions

- 10.22 As part of the review system each responsible authority will need to make arrangements for implementing decisions made in the course of a review of a child's case (regulation 8). Education and library boards, the Northern Ireland Housing Executive and others have a duty under Article 46 to comply with a request from a Trust for help in the exercise of its functions under Part IV of the Children Order. Article 47 imposes duties on Trusts to consult the appropriate education and library board before they accommodate a child in an establishment which provides education. All responsible authorities



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will need to make specific arrangements to secure the co-operation of all others who have a role to play in implementing the plan for the child.

Disagreements

- 10.23 The responsible authority should make every effort to resolve disagreements which arise between the child and parents, the child and the responsible authority or the parents and the responsible authority. When a disagreement cannot be resolved, the responsible authority should ensure that the child (if he is of sufficient understanding), parents, carers and others involved with the child are aware of the representations procedure and are given advice and assistance as necessary (see Chapter 12).

Monitoring the system

- 10.24 Responsible authorities are required by regulation 9 to set in place a system for monitoring the operation of the review system. Where the review of an individual case and the implementation of decisions will involve sharing information and action with others the monitoring of the responsible authority's review system will be a matter for that responsible authority alone. The purpose of the monitoring exercise is to assess how far the system has achieved the objective of ensuring good management of individual cases, to provide an indication of the quality of practice, how far practice reflects the responsible authority's policies and service priorities and to afford an overview of effectiveness in decision-making and social work practice.



CHAPTER 11: CONTACT BETWEEN CHILDREN AND PARENTS ETC

- 11.1 The Children Order imposes a general duty to promote contact between a child who is being looked after and those connected with him. This applies whether a child is accommodated by voluntary arrangement or as a result of a court order. The Children Order also empowers the courts to make orders regarding contact in all circumstances where a child is in care.

Legislative framework and general principles

- 11.2 Article 53 requires the court to consider the proposed arrangements for contact between a child who is the subject of care proceedings and the child's parents and other involved relatives. The court may make directions about the kind or amount of contact which should be allowed. When preparing an application for a care order, an outline of the proposed contact arrangements should be drawn up, so that the court can give consideration to the Trust's proposals and the submissions of others about the proposals. The Trust will be expected to provide details of the proposals for contact when applying for an interim or full care order.
- 11.3 The Contact with Children Regulations made under Article 53(8) impose requirements on Trusts in relation to refusal of contact, departure from the terms of an order made under Article 53 and notification of variation or supervision of contact arrangements made otherwise than under an Article 53 order (see Annex D).
- 11.4 When an order for contact under Article 53 is in force, the Trust remains responsible for the child's welfare. Subject to the terms of the order in relation to decisions about contact, the Trust must continue to plan and care for the child in accordance with its general duty under Article 26(1)(a). In handling decisions about contact within the terms of the order, Trusts should continue to apply the principles set out in this guidance.



Contact with children in care

- 11.5 Where a child is in care, the Trust must allow reasonable contact with a child's parents, any guardian and any other person with whom he was living under a court order immediately before the care order was made (Article 53(1)). The court order may be a residence order or an order under the inherent jurisdiction of the High Court. The power to make orders concerning contact are set out in Article 53(2), (4), (5), (6) and (7). In the event of a dispute about contact when a child is not in care, an Article 8 order may be made on the application of the child, a parent or other person, if the matter cannot be resolved by agreement, or the representations procedure has not provided a solution.
- 11.6 The Contact with Children Regulations require a Trust to notify those affected about proposals to change arrangements for contact in relation to a child in care. If those arrangements are defined in a court order, regulation 3 provides for the terms of the order to be departed from with the agreement of the person named in the order in specified circumstances. In these cases, notification should also be given to the child's parents (where he is not the person with whom the agreement has been made), a guardian, a person in whose favour a residence order was in force immediately before the care order was made and, if the child is in care, any person who had care of the child by virtue of a wardship order and any other person whose wishes and feelings the Trust considers to be relevant (regulation 2).
- 11.7 Subject to any order of the court, it is for the Trust to make decisions about contact arrangements in an individual case where a child is in care. These arrangements should include the child's parents, any one else with parental responsibility for the child and any relative or friend of the child, unless it is not reasonably practicable or consistent with the child's welfare to do so. To support this duty, the Trust is required to take reasonable steps to inform the child's parents and any other person who has parental responsibility for the child of the child's address (Article 29(2)). However, information need not be given if the child is subject to a care order and it would prejudice the child's welfare to give it (Article 29(4)). Equally, a parent



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or other person with parental responsibility for the child in care must inform the Trust of his address (Article 29(2)(b)).

- 11.8 The contact arrangements should include those made in respect of relatives, siblings, grandparents, unmarried fathers and others. In some cases it may be appropriate to identify relatives, for example a parent with whom contact has lapsed, and to follow up the prospects of re-establishing contact. Care will be needed where there is family or marital conflict, but responsible authorities should be ready to explore possibilities of preserving, establishing or promoting contact which could be beneficial to the child.

Contact with children looked after by voluntary agreement

- 11.9 Arrangements for contact with children looked after by voluntary agreement are a matter for negotiation and agreement between the Trust, the Child, parents and others seeking contact. The Trust should ensure that parents and others know where to seek advice about contact.

Promotion of contact with children not looked after

- 11.10 Where a child in the area of a Trust and in need is living apart from his family, but is not looked after by that Trust, paragraph 11(b) of Schedule 2 to the Children Order requires the Trust to promote contact between the child and his family. For example, in the case of a child living in a long-stay establishment the Trust could decide to provide services to the child or family under Part IV of the Order to promote contact.

Importance of contact

- 11.11 The interest of the majority of children will be best served by efforts to sustain or create links with their families. Contact in the sense of personal meetings and visits will generally be the most common and, for both families and children, the most satisfactory way of maintaining their relationship. Other means which can help to keep family bonds alive should also be borne in mind: letters, telephone calls, exchange of photographs. Contact, however occasional, may continue to have a value for the child even when there is no question



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of returning to the family. Such contact can keep alive for a child a sense of his origins and may keep open options for family relationships in later life.

- 11.12 The first weeks during which the child is looked after by the Trust, are likely to be particularly crucial to the relationship between the parents, the social worker and the child's carers and to the level of future contact between parents and child. It is at this time that patterns are set which it may be difficult to change. Parents should be involved in the assessment and planning prior to placement wherever possible. Emergency admissions require special care if parents are to be reassured from the outset that they have a continuing role in their child's life and to minimise distress for the child. Early visits and meetings should be encouraged, even though parents may need help to enable them to cope with the child's distress and their own. These considerations, subject to whatever safeguards are necessary for the child's protection, are equally important where children are subject to emergency protection orders.

Contact and child assessment orders

- 11.13 If, in making a child assessment order, the court directs that the child may be kept away from home, it must also give directions as it thinks fit about contact between the child and other persons during this period (Article 62(10)). A temporary overnight stay cannot be equated with being placed in care, but the court may well be guided on contact by the presumption of reasonable contact between a child in care and his parents, guardian and certain other persons established by Article 53. The court will also wish to consider requests from other persons to be allowed contact and who have to be notified of the hearing. As with other decisions affecting the child the court must give paramount consideration to the child's welfare when considering contact (Article 3).

Contact and emergency protection orders

- 11.14 Where the court makes an emergency protection order (EPO) it has discretion to give directions as appropriate with regard to contact which is or is not to be allowed between the child and any named



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person (Article 63(6)(a)). The court direction may impose conditions (Article 63(8)). However, subject to any of these directions, there is a general duty on the applicant to allow the child reasonable contact with a range of persons ie his parents, any person who is not a parent but has parental responsibility, any person with whom the child was living before the order was made, any persons in whose favour a contact order (under Article 8) is in force with respect to the child, any person who is allowed contact by virtue of an order under Article 53 (see guidance in **Volume 1: Court Orders an other Legal Issues**) or anyone acting on behalf of any of these people. The court may give directions regarding contact not only when the EPO is made, but also at any time while it is in force and may vary the directions at any time.

Contact with a child in police protection

11.15 While a child is in police protection under Article 65 the designated officer must allow such contact (if any) as he considers is reasonable and in the child's best interests with the following categories of persons:

- the child's parents;
- any person who is not a parent of the child but who has parental responsibility for him;
- any person with whom the child was living immediately before he was taken into police protection;
- any person in whose favour an Article 8 contact order is in force with respect to the child;
- any person who is allowed to have contact with the child by virtue of an Article 8 order;
- any person acting on behalf of any of those persons.



If the child in protection is accommodated by a Trust for the area in which the child usually lives, the Trust is required by Article 65(11) to afford such contact as it considers reasonable to these people.

The setting for visits

- 11.16 Visits by the parents to the child in his foster home, residential home or in the family home are the most usual forms of contact. They can provide continuity for the child in that setting and opportunities for parents and carers to meet. If family reunification is the plan, visits should be in the family home at the earliest possible stage. Such visits also have the advantage of maintaining links with the neighbourhood to which the child will be returning. However, other venues may have advantages for some children. Outings are one example. Whatever the venue, the aim should be to ensure that privacy and a welcoming and congenial setting are available. If possible, parents should be encouraged to participate in some way in the child's daily life, by preparing tea, for example, or shopping for clothes or putting a young child to bed.
- 11.17 Residential social workers need training and preparation to make a positive contribution to the success of contact arrangements and to deal with tensions and difficulties which can arise. The potential influence of the establishment's regime should not be overlooked, in particular for children who have been placed in secure accommodation. In every establishment the importance of the contact arrangements should be recognised. The internal organisation and timetable must not make visiting difficult and arrangements for visiting should be sufficiently flexible.

Travelling arrangements and expenses

- 11.18 Parents and others having contact may need advice and help with travelling arrangements. Trusts have power under article 30 to help with the cost of visiting children who are being looked after where there would otherwise be undue financial hardship. The power is not limited to assistance with travelling expenses but can be used to meet all reasonable costs associated with visiting. Parents may also



need advice about benefits which may be payable during a child's extended visits home.

The child's wishes

- 11.19 A Trust has a duty to give due consideration to the child's wishes and feelings, having regard to his understanding in relation to decision-making by the Trust (Article 26(2)(a)). Generally children want to see their parents, other members of their family and family friends. However, sometimes children are unwilling to see some or all of their family or have ambivalent feelings about contact. The social worker, with the help of the carers and any other adults in whom the child may have confided, must attempt to understand the source of these feelings. They may arise from factors which can be changed or which the child can be helped to understand. The social worker and carers should also make real efforts to help the child to understand what is likely to be of greatest benefit to him in the short- and long-term.
- 11.20 Where the difficulties cannot be resolved the Trust may conclude that a child's reasons for not wanting contact are valid. A child should not be forced to see a parent or other person against his will. In such a case the Trust will need to obtain legal advice. A child in care has a right to make an application to the court to authorise the Trust to refuse to allow contact between the child and a named person (Article 53(4)). It may be that the Trust will decide that it is in the child's best interest to initiate such proceedings if the child so wishes. The child's feelings may change and the fact that the child or the Trust has obtained an order ending contact does not preclude the need to reconsider issues of contact.

Restriction of contact with children in care

- 11.21 Planning will generally be based on the assumption that contact will be beneficial to the child unless there are clear indications to the contrary. There are sometimes reasons why, to safeguard the child's welfare, contact must be supervised, restricted or suspended. A child may be committed to care in circumstances which call for a



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decision to refuse contact from the beginning. Where there are special circumstances which mean that no contact arrangements – including short-term arrangements or supervised arrangements – can be offered to a parent while a decision about contact is under consideration, Trusts must bear in mind Article 53(1) and any order under Article 53(3). Article 53(6) provides for a Trust to refuse to allow contact that would otherwise be required under Article 53(1) or by an Article 53 order if:

- (a) it is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare; and
- (b) the refusal –
 - (i) is decided upon as a matter of urgency; and
 - (ii) does not last for more than seven days.

11.22 Regulation 2 of the Contact with Children Regulations requires a Trust which has decided to refuse contact under Article 53(6) to notify in writing as soon as a decision to refuse contact has been made:

- (a) the child, if he is of sufficient understanding;
- (b) the child's parents;
- (c) any guardian of his;
- (d) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the order was made;
- (e) where immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person; and



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- (f) any other person whose wishes and feelings the Trust considers to be relevant.

It will be important to inform the child in a manner appropriate to his understanding and to explain the reasons for the action.

11.23 The notification should contain as much of the information referred to in the Schedule to the regulations as the Trust decides is necessary. The information referred to in the Schedule includes:

- Trust's decision;
- date of the decision;
- reasons for the decision;
- duration (if applicable);
- remedies in case of dissatisfaction.

11.24 Trusts must have a clear understanding of the statutory provision promoting parental contact with children in care (Article 53(1)). Where a decision is reached that the child's welfare would not be promoted by such contact, Trusts should obtain legal advice in relation to invoking the provisions of Article 53. Prior to the commencement of the Children Order, Trusts should identify those children in care whose protection and welfare would necessitate an application to the courts to provide a legal basis for continuing to restrict contact (Article 53(4)).

11.25 Trusts should bear in mind that the Children Order emphasises that there should be no avoidable delay in decisions relating to children (Articles 3(2) and 51). A child's experience of the passage of time varies according to age and general stage of development. Even temporary breaks in contact can have especially damaging effects on the relationship between parents and young children. Older children



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are more likely to benefit from help from the social worker or their carers in understanding the reasons for any necessary limitation or disruption of contact. These considerations apply equally whether decisions are being made when a child begins to be looked after or after he has been in care for a lengthy period. Whatever the decisions made about contact at any stage in a Trust's involvement with a child, it will be necessary to review the decisions in the light of current circumstances at each review.

Departure from terms of court order on contact under Article 53

11.26 Regulation 3 of the Contact with Children Regulations provides for a Trust to depart from the terms of any order for contact under Article 53. The circumstances in which this may be done are as follows:

- there is agreement between the Trust and the person in relation to whom the order is made;
- the child, if of sufficient understanding, also agrees;
- written notification of the agreement is provided within seven days to all the persons listed in regulation 2. This notification should be on a need to know basis.

This provision allows for flexibility and partnership in contact arrangements, obviating the need to go back to the court when all concerned agree a new arrangement.

Variation or suspension of contact arrangements not governed by an Article 53 order

11.27 When a Trust decides to vary or suspend an arrangement for contact between one person and the child in care with a view to affording another person contact with that child, it is required to notify those persons specified in regulation 2 of the Contact with Children Regulations. This requirement is set out in regulation 4 which states that the notification should be given as soon as the decision to vary



or suspend contact is made. The information provided in the notification should be on a needs to know basis.

Communicating decisions about contact

- 11.28 Subject to what is said above, all decisions about contact should be explained to parents and discussed with them. The Trust should also confirm in writing to the parents all decisions and agreements about contact arrangements and any changes to the arrangements and the outcome of all formal and informal reviews of contact. Where limitation or control on contact have been imposed, these should be clearly stated. Similarly, any postponement of contact should be confirmed in writing together with the reasons. Unless the child is subject to a court order, limitations, controls and postponements of contact should be agreed by all those involved.
- 11.29 Simple but informative leaflets about care and the law can be helpful, especially when a child begins to be looked after whether on a voluntary basis or by order of a court. They can help parents to understand their position and that of their child in relation to the Trust and can reassure them about their continuing place in their child's life. Trusts may prefer to design their own leaflets or to use publications available from other agencies and organisations. Leaflets should be couched in terms which are simple and clearly understood, avoiding professional terminology and jargon. Where appropriate, the leaflets should be produced in languages other than English where there is an identified local need. Information should also be in a format accessible to people with communication difficulties. Leaflets should never be used in place of personal letters confirming decisions and agreements about the individual child.
- 11.30 It is important that there should be clear and full communication and understanding of all contact decisions and arrangements among all those who are involved with the child's care, including foster parents and officers in charge of residential homes. Where children are accommodated by other agencies, there should be effective liaison and clear agreements with the agency about all matters relating to contact.



Disagreement with parents

- 11.31 Trusts should ensure that they have clear arrangements to inform parents and others about how to pursue complaints about contact and ask for decisions to be reviewed. They should also ensure that the representations procedure recognises the need to accept complaints from people, other than parents, who have contact with children who are being looked after.
- 11.32 Arrangements should be made for parents to discuss their anxieties and dissatisfactions with senior officers if they feel they have reached an impasse with their social worker. Those arrangements should not be used to prevent or hinder use of the representations procedure required by the Children Order. Parents and, where appropriate according to the child's understanding, the child should be informed of these procedures (see guidance in Chapter 12 on the operation of the representations procedure). When a disagreement persists the parents of a child subject to a care order should be advised to seek a legal opinion on the most appropriate action open to them.

Reviewing contact

- 11.33 Contact arrangements should be kept under review, and not necessarily just as part of reviews. Contact should be monitored to check whether the arrangements are working as intended and to identify any problems which have arisen and any changes which are needed: whether, for example, the arrangements are unnecessarily restrictive. Difficulties should be discussed openly with the parents and with the child's carers so that solutions can be explored and help given.
- 11.34 Some children will be cared for by other agencies, for example, in voluntary homes or special schools. Wherever the child is placed, the statutory responsibility for the child's welfare lies with the Trust. It should continue, in co-operation with any other agency which is involved, to keep under review the child's contact with his family and the progress of contact arrangements.



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- 11.35 When an order for contact is made under Article 53, the Trust will need to review the plan for the child. Contact should continue to be monitored. The Trust will need to consider whether it would be appropriate to apply to the court for variation of the order, including variation of any of the conditions attached to the order.

Record keeping

- 11.36 Full and clear records are essential to the effective monitoring of contact. They will provide a basis for a clear understanding, when social workers or carers change, of the decisions about contact which have been made and the reasons for them. Records about contact should form part of the child's case record required by the arrangements for Placement of Children (General) Regulations.



CHAPTER 12: REPRESENTATIONS AND COMPLAINTS PROCEDURES

- 12.1 Trusts, voluntary organisations and privately run children’s homes (henceforward called “responsible authorities”) are required to have a procedure for considering representations (including complaints) about children’s services. This procedure relates to Articles 37(1)-(2), 45(3)-(8), 75(4), 105(2)(l) of, and paragraph 6 of Schedule 5 to, the Children Order. It should cover all representations about the Trust’s actions in meeting its responsibilities to any child in need under Part IV of the Children Order. Voluntary organisations and privately run children’s homes are also required to set up representations procedures to consider representations – including complaints – made by or on behalf of children accommodated by them but not looked after by a Trust.
- 12.2 The Children Order and the Representations Procedure (Children) Regulations provide a framework on which all responsible authorities should build to achieve a procedure and approach which best suits local needs and their organisational structure. The regulations set the minimum standard of provision that responsible authorities should establish.
- 12.4 The responsible authority should aim to develop a procedure which is understood and accepted by all involved. The procedure should take account of the need for consultation with community groups, voluntary and other organisations with an interest, carers and with staff at all levels. The responsible authority should seek to involve the community in setting up its representations procedure so that the procedure reflects the needs of those who may need to use it.

Definitions

- 12.5 For the purpose of this guidance, the following definitions are used:
- a “responsible authority” is a Trust, voluntary organisation or privately run children’s home;



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- “representations” will include inquiries and statements about such matters as the availability, delivery and nature of services and will not necessarily be critical;
- a “complaint” is a written or oral expression of dissatisfaction or disquiet in relation to an individual child about the Trust’s exercise of its functions under Part IV of, and paragraph 6 of Schedule 5 to, the Children Order and matters in relation to children accommodated by voluntary organisations and privately run children’s homes. A complaint may arise as a result of an unwelcome or disputed decision, concern about the quality or appropriateness of services, delay in decision-making about services or about their delivery or non-delivery (the precise meaning of complaint is a matter for interpretation by the courts);
- a “complainant” is the child or person making the complaint on his behalf;
- an “independent person” is a person, not a member or officer of the responsible authority handling the child’s case who is required to take part in the responsible authority’s consideration of a complaint made to it. The independent person is not an advocate for the child nor an investigator; his role is to provide an objective element in the responsible authority’s considerations (see regulations 5 and 7);
- a “panel” is a group of three persons, at least one of whom is an independent person appointed by the responsible authority to consider complaints reviewed by the responsible authority under the complaints procedure when the complainant remains dissatisfied and to make a recommendations about further action (see regulations 7 and 8);
- the “procedure” is the representations and complaints procedure which responsible authorities are required to set up by the Children Order;



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- the “designated officer” is the office which the responsible authority is required to appoint to assist in the co-ordination of all aspects of the consideration of complaints (see regulation 2(1));

Who may complaint?

12.6 The Children Order requires the responsible authority to establish a procedure for considering any representations (including any complaint) made to it by:

- any child who is being looked after by it or who is not being looked after by it but is in need;
- a parent of his;
- any person who is not a parent of his but who has parental responsibility for him;
- such other person as the responsible authority considers has a sufficient interest in the child’s welfare to warrant his representations being considered by it,

about the discharge by the responsible authority of any of its functions under the Children order in relation to the child.

12.7 The responsible authority should always check with the child (subject to his understanding) that a complaint submitted reflects his views and that he wishes the person submitting the complaint to act on his behalf. Where it is decided that the person submitting the complaint is not acting on the child’s behalf, that person may still be eligible to have the complaint considered under the procedure. Regulation 3(5) of the Representations Procedure (Children) Regulations makes it clear that the responsible authority has discretion to decide in cases where eligibility is not automatic whether or not an individual has



sufficient interest in the child's welfare to justify his own representation being considered by it. The responsible authority should have a clear policy on this matter which takes account of the Children Order's emphasis on participation in decision-making of all those persons who are significant to the child or can make a positive contribution to planning for the child's future. A flexible approach to this issue will ensure that such individuals are not overlooked or obliged to use other means to make their views or complaint known.

What may be complained about?

- 12.8 A Trust's procedure must cater for complaints from the people mentioned above about Trust support for families and their children under Part IV of the Children Order. This will include complaints about day care, services to support children within the family home, accommodation of a child, aftercare and decisions relation to the placement of a child or the handling of a child's case. The processes involved in decision-making or the denial of a service must also be covered by the responsible authority's arrangements. In addition to those matters directly related to the provision of services to children in need, other matters fall within the scope of the Representations Procedure (Children) Regulations and must be covered by the procedure a trust sets up to meet the requirements of those regulations. Regulation 12(2) refers to representations about decisions by a Trust in respect of exemptions to the "usual fostering limit" (paragraphs 4-6 of Schedule 5 to the Children Order). Such representations should be dealt with in accordance with the regulations and the guidance below. Regulation 10(1) and (2) requires that voluntary organisations and privately run children's homes also set up representations procedures in line with the regulations to consider representations from children accommodated by them and others eligible to make representations.
- 12.9 The responsible authority should consider what other matters might be appropriate to the procedure set up to meet the requirements of the regulations. The responsible authority should allow representations to be made about matters which affect a group of



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children rather than an individual child to be processed within its procedure. For example, inappropriate restrictions on the lives of children in residential care such as preventing children's activities for the convenience of staff, fixing meal times to suit staff rather than to fit in with the normal needs of children or preventing children's normal activities outside the home.

- 12.10 Dissatisfaction about a Trust's management or handling of a child's case, even where related to a court order, may be appropriate to the complaints procedure. The inclusion of a child's name on a child protection register is an administrative action not carried out under any statutory provision (even where the decision is linked to a recommendation to seek a court order) but is part of an inter-agency process for which the Trust is in the lead but does not carry full responsibility. While the requirements of Article 45 are confined to the Trust's functions under the Children Order it would be good practice to provide, with the agreement of the Area Child Protection Committee (ACPC), an appropriate procedure to handle complaints about inter-agency case conferences and their recommendations.

Objectives

- 12.11 Children and others making representations or complaints, should have access to a procedure which provides them with an opportunity to make representations and complaints about, and challenge decisions made in relation to, services provided to them direct or via an agency. This is particularly important when no other means of redress is open to them and is valuable even when alternative avenues do exist. A well publicised statement of commitment to the representations procedure should encourage the identification and speedy resolution of representations and complaints as they arise. Secondary benefits of the system will be to illustrate to the responsible authority how policies translate into practice and to highlight areas where it should be more responsive to the needs of individual clients and the community.
- 12.12 The statutory requirements and the associated guidance seek to achieve an accessible and effective means of making complaints,



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close to the point at which the problem arose but with an independent element that will inspire confidence in the procedure. That confidence will not develop unless complaints are acted on within the shortest possible time and an opportunity to challenge the outcome of the considerations is available. The regulations require that the responsible authority's arrangements should satisfy those criteria. It is not intended that all problems that arise in the day to day handling of child care services should automatically be elevated to the status of a complaint. A matter which is promptly resolved to everyone's complete satisfaction when drawn to the attention of an officer of the responsible authority is not something that requires reference to the procedure.

Problem-solving

- 12.13 It will usually be possible to resolve a problem satisfactorily before a complaint is made. Efforts to resolve matters will include discussion and reconsideration as well as explanations of decisions made and actions taken. The aim should be to resolve dissatisfaction as near to the point at which it arose as possible. The responsible authority may wish to consider how it can ensure that advice and support is available to persons expressing dissatisfaction at this stage. Advocacy as a service to the child as part of child care service provision is not ruled out by the Representations Procedure (Children) Regulations, nor is it ruled out if a responsible authority wishes to provide such a service to support the child in this or other procedures. However, attempts at problem-solving should not be used to divert an eligible person from lodging a complaint under the statutory procedure.
- 12.14 Staff will need advice on the difficult issue of when an unresolved problem becomes a complaint. This will help to ensure that the problem solving stage is not prolonged beyond any positive period of action, thereby delaying or preventing recourse to the representations procedure, and that problems capable of simple resolution do not become complaints. The responsible authority may wish to consider whether it would be helpful to individuals to know that they are expected to resolve a request for a review of a decision



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within a specified time limit. Attempts at problem-solving should not end once a complaint has been registered. Rather, there should be continued efforts to resolve the dissatisfaction of service users so that the matter complained of is resolved during consideration of the complaint.

Publicity

- 12.15 Responsible authorities are required to publicise their representations procedures. It is recommended that each responsible authority should publicly announce the setting up of the procedure and invite the participation of service users, community groups and others. The publicity should make clear who is entitled to make use of the procedure and how they may do so, what the procedure covers, to whom a representation or complaint should be addressed, who is available to give advice, the stages in consideration of a representation or complaint and the timescale for each stage. The publicity should be framed in terms that make clear that the procedure is a part of the responsible authority's commitment to partnership and the participation of child and parents in the provision of services.
- 12.16 Information should be available in the form of leaflets and posters at the responsible authority's premises, health clinics, schools, libraries, family centres, doctors' surgeries, residential homes, Citizens Advice Bureau and other suitable places. Information leaflets and booklets, using plain language and, where there is an identified need, in other appropriate languages, should be freely available to children of sufficient understanding, parents and others who may be eligible to use the procedure. In addition it would be good practice to ensure that the information on the representations procedure forms part of an information pack made available prior to a first review of a child's case or at the time a decision is issued in respect of approval of a foster parent. Consideration should be given deciding how best to provide the information in alternative formats such as in large print, Braille, on tape or video. All the material should present a positive view of the use of the procedure and should seek to counter fears



that invoking the procedure will cause problems for a complainant in their day to day contact with responsible authority.

Management issues

- 12.17 A representations procedure will be effective only if the responsible authority demonstrates commitment to it, ensuring, as required by regulation 2(2), that its policy and the detail of the procedure are known, understood and accepted by staff, independent persons and clients. Staff may have concerns about workload, their own ability to operate within the procedure or their vulnerability to unfounded complaints. An unequivocal policy statement on the scope and benefits of the procedure, together with recognition of the need for management structures and staff training which reflect the demands of that policy will help to reassure staff. Discussions with staff and their associations will identify areas of concern and afford opportunities for addressing these concerns. Some responsible authorities may have procedures in place that will require little modification to meet the requirements of the Children Order. Where this is the case staff will still need to know of any changes, including the scope of the procedure and an explanation of the effect on the procedure of the Children Order requirements.

Representations involving more than one Trust

- 12.18 If a representation is made which involves more than one Trust, it should be considered by the Trust which is looking after the child. If the child is not being looked after but provided with other services the Trust in whose area the child normally resides should consider the complaint. In such cases, it is suggested that the designated officers of the Trusts involved work together.

Links with other procedures

- 12.19 There will be a need for links with other procedures including those within other agencies contributing to childcare services. For example, health professionals may be involved in family support and child protection work. Other agencies who may be involved in child



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care services include education and library boards, the Northern Ireland Housing Executive, voluntary and private child care organisations, the probation service and the police. It is essential that arrangements cover both the separating out of representations or complaints appropriate to another procedure and cases where some joint action is appropriate.

Complaints with a disability

- 12.20 Complaints about the discharge by a Trust of any of its functions under Part IV of the Children Order including functions in relation to children with a disability will be dealt with under this procedure, whether the complaint is about services provided or about decisions on what services are or are not to be provided following an assessment of a child's needs.

Other avenues of complaint

- 12.21 The procedure required by the Representations Procedure (Children) Regulations is not an appeals procedure. Separate procedures exist under the Children Order for appeals against the "usual fostering limit" exemption. Appeals against court orders will be to the court. Such court procedures need not exclude the processing of a complaint which is eligible for consideration under the representations procedure, but legal advice should be sought in such cases.

The Commissioner for Complaints

- 12.22 The Commissioner for Complaints may investigate a complaint about maladministration by a responsible authority where the complainant is not satisfied with the conduct or outcome of the responsibility authority's own investigation.

Appropriate procedure in the Trust

- 12.23 Whenever a complaint is made the implications for other procedures should be considered and addressed. Procedural guidance will need



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to be clear on the distinction to be made between a complaint, a grievance and the reporting of a matter which is a criminal offence. Staff will wish to be reassured that the establishment of a representations procedure will not lead to the by-passing of existing grievance and disciplinary procedures and clients need to know which procedure is deemed appropriate and why.

- 12.24 The handling of a complaint may be concurrent with action under the disciplinary procedures or child protection action and on occasion a police investigation. Decisions on how to proceed will be made on the basis of individual cases and local guidance will be necessary on how priorities are identified and decisions made in relation to individual cases. The need to protect a child has to be the first priority and where the complaint is made by a child, the need for child protection action should be considered. If child protection action is appropriate, the inter-agency procedure should be brought into action at the earliest possible stage. The fact that a child is accommodated by or on behalf of a Trust makes this more important, not less (see **Volume 6: Co-operating to Protect Children**).
- 12.25 Usually a complaint will be a perceived failure of the responsible authority rather than an individual and will be clearly a matter for consideration under the procedure. A complaint may be linked to a matter that is being dealt with under the grievance procedure (which concerns staff issues such as conditions of service) or the disciplinary procedure (which applies to actions of staff in relation to failures to comply with instructions, guidance or codes of practice etc). The responsible authority should make clear to staff, trades unions and professional associations that consideration of the complaint is distinct from any action that may be necessary under the grievance or disciplinary procedures. In such cases staff and trades unions should be kept informed of progress in consideration of the complaint, but they should not be given any details which would breach confidentiality where this would be against the best interests of the child.



Support of those using the procedure

- 12.26 The responsible authority will need to consider what type of support and encouragement it can offer to clients to make use of the system and to pursue their representation or complaint through the procedure. Information leaflets and open letters to children and parents being provided with services will help to make clients aware of the procedure. However, some parents and most children will need advice and confidential support to make their representation or complaint, to pursue it, to understand the administrative process and to cope with the outcome.
- 12.27 Regulation 3(1) of the Representations Procedure (Children) Regulations requires that responsible authorities offer assistance and guidance on the use of the procedure or give advice on where this may be obtained. Responsible authorities will wish to consider how this obligation can be fulfilled. Where the responsible authority has made the kind of provision to assist problem-solving outlined in paragraphs 12.13 and 12.14, it may wish to extend to those arrangements to provide support for complainants. Children accommodated in a residential care setting are likely to need support at every stage if they are to be confident enough to invoke the procedure and to be sure that making a representation will not rebound upon them. This may mean that a person who has no line management or service delivery responsibility or involvement in the child's case should be available to work with the child in the matter of a representation. The responsible authority will wish to consider how this could best be arranged. Where voluntary organisations and privately run children's homes are providing accommodation for children in small establishments, they will need to take special care that their arrangements provide the children with appropriate support and the independent element required in the procedure.
- 12.28 Staff directly involved in a matter complained of or with the child in another context should be informed of a complaint and actions that are taken during the considerations by the responsible authority. Whatever their involvement staff may need increased support and supervision from line managers to help them co-operate with



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considerations under the procedure and to work positively with the child.

Staffing

12.29 The regulations give responsible authorities discretion as to how to decide to use the officer they are required to designate to assist in the co-ordination of all aspects of the consideration of representations. However it is recommended that each responsible authority designate an officer to take day to day responsibility for the co-ordination of the procedure. The post will need to be at a sufficiently senior level to reflect the importance of the task and the responsible authority's commitment to it. The skills required are not specific to any one discipline and it may be that an administrator would best combine the variety of tasks the post will include. The appointment of an administrator, recognisably independent of professional line management, could help demonstrate the separate role of the designated officer.

12.30 In particular, the designated officer might:

- receive and investigate, or oversee the receipt and investigation of complaints that cannot be resolved informally;
- give advice on the response of the responsible authority to individual complaints;
- ensure the smooth running of the panel arrangements, including the appointment and servicing of panels.

12.31 The responsible authority may wish additionally to give responsibility for the overall organisation and effectiveness of its procedure to one of its senior officers. This job could include:

- establishing, resourcing and monitoring the procedure;



- directing and overseeing the arrangements made for training and publicity;
- collating data on complaints and disseminating that data to line managers and to members of the responsible authority.

Independent element of the procedure

12.32 The Representations Procedure (Children) Regulations provide for a two stage procedure with an independent element at each stage. Regulation 4 requires that an independent person be involved from the outset of the considerations and regulation 7 requires that a panel be convened including at least one independent person where a first stage consideration has not satisfied the complainant. There is nothing in the regulations which prohibits the independent person involved in the first stage consideration of a case from being a member of the panel, but the responsible authority will wish to consider to what extent the panel can take a fresh look at the case if the same independent person is involved. The responsible authority may wish to draw up a list of independent persons suitable and willing to act as an independent person or to sit on a panel. It would be good practice to consult community groups when drawing up a list. Trusts should seek also to draw upon voluntary groups, other agencies and independent professionals to ensure that independence is demonstrably built into their procedure. Responsible authorities will need to look carefully at the independence of a member of a voluntary organisation when contractual arrangements exist between the responsible authority and the voluntary organisation.

12.33 Local arrangements will reflect the demand upon the procedure, the different racial and cultural groups in the area and the availability of suitable people willing to serve. In some areas a standing panel appointed for a period (perhaps not exceeding three years) might be an effective arrangement. In other areas, it may be more appropriate for a panel to be convened for each occasion. The responsible authority will need to consider what training or other support such as legal advice it might wish to provide for independent persons. This



might be appropriately dealt with by joint initiatives to devise appropriate training strategies between responsible authorities.

Appointment of independent persons

12.34 The responsible authority will need to appoint independent persons both to consider complaints as individuals at the first stage and as part of a panel at the second stage. Regulation 1(2) states who is excluded from acting as an independent person. In addition, it is recommended that the independent person should not be a spouse of an officer or member of the responsible authority. It is also recommended that co-habitees of those excluded from being independent persons are excluded. The responsible authority will need to make clear to prospective independent persons the nature of the task and the degree of commitment required. The responsible authority will need to be able to identify quickly independent persons with particular skills or knowledge that may be required in a particular case. Independent persons should be given a letter of appointment explaining the duties they will be required to carry out, drawing attention to important issues such as confidentiality, and making clear the working arrangements involved in the consideration of complaints. The letter should also describe the expenses and other payments to which they may be entitled.

Setting up the procedure

12.35 The complaints procedure established by the responsible authority should be uncomplicated, accessible to those who might wish to use it, understood by all members of staff and should reflect the need for confidentiality at all stages. The responsible authority has discretion to decide how exactly to implement the regulations and set up the procedure to best suit local needs. However, to meet the minimum requirements of the regulations and the Children Order, the responsible authority should:

- designate an officer to assist in the co-ordination of all aspects of the consideration of complaints (regulation 2(1) and paragraphs 12.29 and 12.30);



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- publicise the procedure (Article 45(8) and paragraphs 12.15 and 12.16);
- ensure that members of staff of the responsible authority and independent persons are familiar with the procedure (regulation 2(2) and paragraph 12.17);
- acknowledge all complaints received by sending the complainant an explanation of the procedure and offer assistance and guidance on it or advice on where assistance and guidance may be obtained (regulation 3(1) and paragraph 12.36);
- accept and record any oral complaints in writing agreeing them with the complainant (regulation 3(2) and paragraph 12.37);
- appoint an independent person to consider the complaint with the responsible authority (regulation 4 and paragraphs 12.32-12.34);
- consider the complaint with the independent person and respond within 28 days of receipt of the complaint (regulation 5 and paragraphs 12.40-12.41);
- address the response to the person from whom the complaint was received; and also, where different, to the person on whose behalf the complaint was made and to any other persons who appear to have a sufficient interest or are otherwise involved or affected. The response should advise the complainant what further options are open should he remain dissatisfied (regulation 7(1) and paragraph 12.41);
- make arrangements to that where a complaint remains dissatisfied and requests (within 28 days) that his complaint be reviewed, a panel is constituted by the responsible authority to meet within 28 days of the responsible authority's



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receipt of the complainant's request (regulation 7(2) and (4) and paragraphs 12.41 and 12.42). The panel is required by regulation 7(3) to include at least one independent person. The complainant, the responsible authority and the independent person appointed under regulation 4 should be allowed to make oral or written submission to the panel if he is not a panel member (regulation 7(5) and paragraph 12.44). the complainant may be accompanied at a panel meeting by another person of his choice who may speak on his behalf (regulation 7(6) and paragraph 12.44);

- ensure that the panel's recommendation is recorded in writing within 24 hours of the completion of their deliberations (regulation 8(1)), and is sent (formally) to the responsible authority, to the complainant, to the first stage independent person and to anyone acting on the complainant's behalf (regulation 8(2) and paragraph 12.46);
- decide on the response to the recommendation of a panel after consideration with an independent person from the panel (Article 45(7)(a), regulation 8(3) and paragraph 12.47) and make the decision known in writing to the person who requested that the complaint be considered by the panel, and where different, the person on whose behalf the request was made, the first stage independent person (if different from the independent person on the panel) and any other persons as appear to have a sufficient interest or are otherwise involved or affected. Notification should be given within 28 days of the date of the recommendation. The letter should explain the responsible authority's decision and the reasons for it and any action it has taken or proposes to take (Article 45(7)(b));
- keep a record of all complaints received and the outcome in each case and identify separately those cases where the time limits imposed by the regulations have been breached (regulation 9(1) and paragraph 12.51);



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- provide an annual report on the operation of the procedure (regulation 9(2) and (3) and paragraphs 12.54 and 12.55).

Receipt of complaint

12.36 When a responsible authority receives a complaint about the discharge of any of its functions under the Children Order in relation to a child by any of the persons eligible to make a complaint (see paragraph 12.6 above), an acknowledgement of the complaint should be sent to the complainant with a leaflet describing how the representations procedure works and giving the name of the designated officer with responsibility for co-ordinating the handling of complaints under the procedure (see regulation 2 and paragraphs 12.30 and 12.31). The provision of a clear and easy to understand leaflet is an important part of the responsible authority's duty to publicise the representations procedure (see paragraphs 12.15 and 12.16 for guidance on publicity). It will be good practice for the leaflet to inform the complainant of other avenues by which to pursue his complaint including the option of complaining directly to the Commissioner for Complaints.

Oral complaints

12.37 If a complaint is made orally, the responsible authority is required by regulation 3(2) to arrange for it to be recorded in writing and agreed with the complainant. The responsible authority will need to consider how to meet the varying needs of children in this respect. This will be particularly important in relation to children from ethnic minorities whose understanding of English may be limited and children with communication difficulties. Similar consideration will also apply in relation to adults from these groups who may be making the complaints. Facilities available for people from these groups should be well publicised including local voluntary organisations and community or self-help groups.



Determination of eligibility to complain

12.38 The responsible authority may also receive complaints in relation to a child from persons other than those covered by the categories who are automatically entitled to complain (see paragraph 12.6 above). The complaint could be made by a relative, friend, teacher, GP or any other person. The responsible authority has to consider whether that person has sufficient interest in the child in order to determine his eligibility. The responsible authority should consider the views of the child where he is of sufficient understanding and of the other people mentioned in paragraph 12.6 to help it decide whether it is necessary to consider the representation in order to promote and safeguard the welfare of the child.

Notification of determination of eligibility

12.39 Once the responsible authority has determined whether the complaint is eligible for handling under the procedure, the complainant should be notified in writing and provided with a copy of the responsible authority's leaflet on its representations procedure. The child should also be notified where he is not the complainant if the responsible authority considers he is of sufficient understanding, whether or not the complaint is deemed to be eligible. The date of receipt of a complaint which required consideration for eligibility will be the day on which the responsible authority makes its decision about eligibility. Where it is decided that an individual is not eligible to pursue a complaint on behalf of a child, the responsible authority should consider whether the substance of the complaint needs to be addressed as if the child had complained.

Consideration with independent person

12.40 The basis of the representations procedure is that an independent person should be actively involved in considering the complaint. Once appointed by the responsible authority the independent person should take part in all discussions the responsible authority may hold about the complaint. He should be allowed to interview the child, the



complainant where this is not the child, parents and other involved persons including relevant members of staff if he considers this necessary in order to form an independent view. He should also be given access to relevant parts of the case record. It is recommended that the independent person should provide written comments to the responsible authority.

Notification of responsible authority's decision

- 12.41 The responsible authority should notify the complainant, the child if he is of sufficient understanding, the independent person and any other person the responsible authority considers has a sufficient interest in the child of the proposed result of its consideration (regulation 7(1)). The letter should be clear and simple and give reasons and proposed action, whether or not it changes an earlier decision which gave rise to the complaint. The letter should also remind the complainant of his right to request that the complaint is considered by a panel with an independent person sitting on it. If the complainant does wish to take advantage of this he should be asked in the letter of notification to make a formal written request which should reach the responsible authority no later than 28 days from the date on which the letter of notification was sent (regulation 7(2)).

Reference to panel

- 12.42 If the complainant is dissatisfied with the responsible authority's proposal, whether or not the independent person is in agreement with that decision, he can request that the complaint be considered by a panel. Under the regulations, the responsible authority is required to appoint a panel and arrange for the panel to meet to consider the complaint within 28 days of receipt of the letter from the complainant requesting the complaint to be considered by the panel. If no such letter is received from the complainant then consideration of the complaint is ended.

Notification of panel meeting

- 12.43 It is recommended as part of the arrangements of the meeting, that



the complainant and the independent person who considered the complaint at the previous stage (if he is not a member of the panel) are notified in writing of the date, time and venue of the meeting and invited to attend. It would be good practice to inform the complainant of the name and status of the panel members specifying which member is the independent person and which officers of the responsible authority will be present.

Submissions to the panel

- 12.44 The complainant may make written submissions to the panel before the meeting and make oral submissions at the meeting. The responsible authority has a corresponding right to make submissions to the panel (regulation 7(5)). The first stage independent person also has the right to make written and oral submissions to the panel (if he is not a member of the panel). His letter of appointment will have made this clear (see paragraph 12.34). The complainant should also be informed of his entitlement to be accompanied by another person who shall be entitled to be present at the whole meeting and to speak on his behalf if he so wishes (regulation 7(6)).

Conduct of the meeting

- 12.45 It is suggested that the meeting is conducted in as informal an atmosphere as possible. In arranging a meeting, the responsible authority will have to consider whether any special provision needs to be made for complainants from ethnic minorities whose understanding of England may be limited or for complainants with a disability who may have mobility problems or communication difficulties.

The panel's recommendations

- 12.46 Regulation 8(1) requires that the panel records the reasons for its recommendation in writing. The panel is also required by regulation 8(1) to decide on its recommendation within twenty-four hours of the meeting and to notify in writing the responsible authority, the complainant, the independent person involved in the first stage



consideration (if he is not a member of the panel) and any other person whom the responsible authority considers has sufficient interest in the case (regulation 8(2)). The panel may, if it considers it appropriate, make its decision at the meeting. If the panel does not make its decision at the meeting or immediately after the meeting, it must reconvene within the twenty-four hour limit to make its decision. The letter of notification should explain simply and clearly the reasons for the decision. The letter should also advise the complainant that the responsible authority is required to consider and have due regard to the panel's recommendation.

Reconsideration of decision by the responsible authority

- 12.47 The responsible authority is required to consider what action should be taken in the light of the panel's findings, in conjunction with an independent person from the panel (regulation 8(3)). The responsible authority will also wish to take account of the effect of the findings and the outcome of its considerations upon the child (and complainant if not the child). There may be aspects of the complaint which require further inquiry under different procedures.

Notification of the responsible authority's consideration of panel's recommendation

- 12.48 The responsible authority should notify the complainant, the child if he is considered to have sufficient understanding and such other persons as the responsible authority considers appropriate. This notification should be given within 28 days of the date of the panel's recommendation. The notification should be clear and simple, explaining the responsible authority's reasons for the decision. Those whom the responsible authority should consider notifying may include the panel, the independent person involved in the first stage consideration (if he is not a panel member), relevant members of staff in the responsible authority and other agencies. The responsible authority may also wish to notify a child's independent visitor or someone in another agency working with the child, particularly where the child will need to come to terms with the decision. The responsible authority should arrange for explanations



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to be given in advance of formal notifications wherever possible to the child, to parents and to other complainants if appropriate. In particular, the child may need reassurance and should be given opportunities to discuss his feelings about the outcome of the consideration. This will be the case whether or not the outcome is one that the child or complainant welcomes. Where it is appropriate, the responsible authority should advise the complainant of other avenues of complaint or appeal that may be open to him. Informative leaflets could be provided with the notice of decision. Equally, members of a responsible authority's staff who were involved in the matter complained of should receive an explanation of the outcome of the considerations.

Subsequent action

- 12.49 The responsible authority should take any action decided upon as a result of the findings in an individual case as soon as possible after the decision has been reached. Delay would undermine confidence in the procedure and might well become the subject of another complaint or cause the complainant to seek another remedy.
- 12.50 The responsible authority will wish to take note of aspects of the case complained about that require action under other procedures or that have general implications for policies or practice. In the first instance the other procedure should be identified and the relevant body should be informed and appropriate arrangements made. Where issues of policy and practice arise, the responsible authority will need to consider how best to address the issue and the timescale for action. Serious matters will need immediate attention.

Monitoring

- 12.51 Regulation 9 set out requirements for responsible authorities to monitor the operation and effectiveness of their representations procedure. A record should be kept of each complaint received which details the nature of the complaint, the action taken, the outcome of each complaint and whether there was compliance with



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the time limits specified in regulations 5(1), 7(4) and 8(1) (regulation 9(1) refers). This information should provide regular and anonymised information about numbers and types of complaint received, the time taken to deal with them and their outcome. All responsible authorities should devise systems locally to provide for:

- the dissemination of this information to line managers;
- its use as a measure of performance and means of quality control;
- information derived from complaints about services subject to statutory regulation (such as residential care homes) or where services purchased under contract are concerned, to the person responsible for monitoring the contract.

12.52 Information about complaints that are dealt with and resolved at the first stage may be of equal value to information about the smaller number of complaints referred to the panel. Where such (first stage) complaints raise policy, resource management, staffing or other issues, line managers should be informed.

12.53 Information collected during the monitoring process and during consideration of individual complaints will provide feedback on management and operational matters such as how policies are interpreted by staff and service users, how effective communications is within the responsible authority and to the public, where staff training is required and whether resources are targeted correctly.

12.54 An annual report dealing with the operation of the complaints procedure should be compiled by responsible authorities. The report should be available, with a copy of the procedure, at any inspection authorised by the Department. The report should include:

- a summary of the statistical and other information;
- a review of the effectiveness of the procedure.



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12.55 In preparation for making the annual report, responsible authorities should consider inviting comment from those consulted during the setting up of the procedure on the question of its effectiveness and on the scope for possible improvements. Regular consultation with such groups and sharing information on the outcome of the monitoring process will help to build confidence in the operation of the procedure.



CHAPTER 13: INDEPENDENT VISITORS

Duty to appoint an independent visitor

- 13.1 Article 31 of the Children Order places a duty on a Trust to appoint an independent visitor in respect of any child it is looking after if it believes that it would be in a child's best interest and certain conditions are satisfied. The need for such an appointment arises where communication between the child and his parent or a person who is not a parent but who has parental responsibility has been infrequent, or where he has not visited or been visited by his parents or a person who is not a parent but who has parental responsibility during the preceding twelve months. Throughout the guidance the child is referred to as he/him and the independent visitor as she/her for convenience to distinguish the two.
- 13.2 The Children Order requires the appointment of an independent visitor in appropriate cases in respect of any child looked after by a Trust. A child is being looked after by a Trust if he is the subject of a care order or if he is provided with accommodation by a Trust (Article 25(1)).
- 13.3 The provisions do not extend to children accommodated in a residential care home, nursing home or private hospital unless the child is being looked after by a Trust which has placed the child (who may perhaps be disabled) in any of the above types of facility under its general accommodation and maintenance duties (Article 27(2)).

Definition of independent visitor

- 13.4 Article 31(7) empowers the Department of Health and Social Services to make regulations as to the circumstances in which a person appointed as an independent visitor is to be regarded as independent of the Trust appointing her.
- 13.5 The regulations provide that a person is not to be regarded as independent if she is a member of the Trust or of its committees or sub-committees or is an officer of the Trust or is the spouse of any of



these. Additionally, where the child is being accommodated by an organisation other than a Trust, eg in a voluntary or privately run children's home, a person who is a member or a patron or trustee of the organisation, or who is employed by the organisation whether paid or not, or who is the spouse of any such person is not to be regarded as independent, Trusts should consider whether it would be appropriate to treat people who are cohabitants as spouses.

Identification of children for whom an independent visitor should be appointed

- 13.6 Regulation 5 of the Review of Children's Cases Regulations places a duty on a Trust to consider at reviews whether an independent visitor should be appointed in respect of a child looked after by it. It is likely that consideration is first given to the appointment of an independent visitor at a review. In some cases the question may arise when the Trust first draws up a plan for a child whom it is looking after (regulation 4 of the Arrangements for Placement of Children (General) Regulations).
- 13.7 A Trust may be required to appoint an independent visitor where:
- it appears to the Trust in relation to any child it is looking after that communication between the child and a parent of his, or any person who is not a parent of his but who has parental responsibility for him, has been infrequent; or
 - any child it is looking after has not visited or been visited by (or lived with) a parent of his, or any person who is not a parent of his but who has parental responsibility for him, during the preceding twelve months (Article 31(1)).
- 13.8 If either of these criteria is satisfied, the Trust must assess whether it would be in the child's best interests for an independent visitor to be appointed. In reaching its decision, the Trust must have regard to the general duty in relation to children it is looking after (Article 26(2)) to ascertain, as far as is reasonably practicable, the wishes and feelings of a range of persons, including the child. The wishes of the



child are of particular importance. The Trust must also take into consideration the child's religious persuasion, racial origin and cultural and linguistic background (Article 26(3)). The Trust may not appoint an independent visitor for a child if the child objects to it and the Trust is satisfied he has sufficient understanding to make an informed decision.

- 13.9 In certain circumstances, although the criteria for appointing an independent visitor exist, the Trust may decide that an appointment is unnecessary or not in the child's best interests. For example, a child may be well settled in a permanent placement with foster parents and already have sufficient contacts, friends and, if necessary, opportunities to seek advice. In some cases members of his family other than his parents may be in regular contact making the appointment of an independent visitor unnecessary.

Selection of an independent visitor for a particular child

- 13.10 In matching a particular visitor with a particular child the Trust will need to have regard to the wishes of the child, his parents or those with parental responsibility and any other persons whose wishes and feelings are relevant. If the child objects to the Trust's choice it may not make the appointment.
- 13.11 The child's social worker will have been involved in the process whereby the Trust has decided that an independent visitor was necessary and his advice in the matching of a potential visitor to the child is crucial. The personal qualities required of an independent visitor will include an ability to relate to children generally and more specifically in a manner appropriate to the age and circumstances of the child for whom she is to be appointed.
- 13.12 A child's views about whom he would like as an independent visitor and the reasons why will vary greatly. The Trust will need to take into account the child's wishes and feelings and these may also include whether the independent visitor should share his religious persuasion, racial origin, cultural and linguistic background. Where it has not proved possible to make a placement which entirely reflects



the child's religious persuasion or racial and cultural background the independent visitor could be an important link for the child in this respect.

13.13 There will be a need for introductory meetings to provide an opportunity for mutual assessment and to enable the child to decide whether he wishes the appointment to be made. If the child does not, the Trust should consider whether the appointment of another person might be possible and appropriate.

13.14 In a very limited number of cases there may be a relative who would be appropriate to fulfil the role of independent visitor and this arrangement might be the child's preferred option. The Trust will need to distinguish between the small minority of cases where the designation of a relative or friend as the child's visitor is appropriate and the more common situation where the child properly has ongoing contact with relatives and friends. In the latter situation the Trust should encourage such contacts and may pay expenses without the necessity of changing the status to that of independent visitor (Articles 29 and 30).

Recruitment

13.15 A Trust will need to devise a strategy for the recruitment of appropriate persons to act as independent visitors. It may be helpful to consult with community groups, voluntary bodies and other organisations with an interest in children. Imaginative and energetic recruiting measures may have to be devised to ensure that the needs of the child can be met in terms of his religious persuasion, racial origin, cultural and linguistic background. Particular requirements may also arise in the case of children with a disability. It may be acceptable in some circumstances for an independent visitor to fulfil that role for more than one child.

13.16 For a child in his early teens and likely to be looked after until he is independent, the relationship with the independent visitor might last four or five years. A variety of factors will determine the length of the relationship, but since it has the potential to be long-term, there are



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clearly strong arguments for recruiting as independent visitors people who are able to make a long-term commitment to the role. However, recruitment procedures should not preclude those potential independent visitors who, although able only to offer their services for shorter periods, may have valuable qualities and could well be needed and play a valuable role.

- 13.17 Trusts may wish to consider recruiting a pool of persons to act as independent visitors. This should allow the selection of an individual visitor for a particular child to take place more quickly than would be possible if the complete recruitment and appointment process had to be undertaken from the beginning. However, even if there is a pool of visitors with a variety of Trust and the child identify specific requirements which cannot be met by those visitors who have already been recruited. Moreover, there are disadvantages to the pool approach. Individual independent visitors may become frustrated and disillusioned by over-long waiting periods between appointments to the pool and introductions to a child.

Training and support

- 13.18 The recruitment, assessment and support of independent visitors requires the deployment of administrative and professional skills which have similarities to those needed to assess foster and adoptive parents. For this reason Trusts may wish to consider locating the responsibility for the independent visitor service within such a specialist team.
- 13.19 The effectiveness of the independent visitor will depend principally on personal qualities, ability to communicate with children, commitment and interest in children's welfare. These are pre-requisites. However, such qualities will be enhanced by the provision of an induction programme which will need to cover not only the formal aspects of their role and functions but also the duties and procedures of the Trust and the relevant aspects of the legislation. Some familiarity with the principles and practice of inter-agency working in child abuse matters would be helpful. It is not intended that independent visitors should be required to undertake intensive



training beyond the induction phase but there may be occasions when, because of the circumstances of an individual child, the independent visitor would benefit from some additional training.

- 13.20 Induction training will also allow the opportunity to set expectations in respect of access to file information concerning the child and the extent to which the independent visitor herself keeps any record, over and above that required to claim expenses. On appointment of the independent visitor, the Trust will have to decide the amount of information to be given to her in the circumstances of the child's current situation and history. The general approach is likely to be based on "the need to know" principle but there will always be some situations where it would be judged preferable to give the independent visitor the maximum information possible. The child himself should be involved in deciding what information is made available. It should be noted that the independent visitor has no formal right to inspect the child's case files.
- 13.21 In most situations it will neither be necessary nor appropriate for the independent visitor to keep detailed records of her discussions with the child. However, she may well wish to keep a note as an aide-memoiré, for example, the names of relatives the child mentions or birthdays. The independent visitor may also feel it appropriate to note the decisions of meetings such as reviews she has attended with the Trust. All records should be kept in such a manner as would protect the child's identity. Induction training should stress the importance of ensuring that such confidential information is safely stored, in the context of wider discussion about general confidentiality issues. There should be a clear understanding that such records would be destroyed on termination of the appointment.
- 13.22 Independent visitors and the Trust should discuss at an early stage how to deal with any anxieties which the child's carers might feel about the appointment of an independent visitor. Trusts should arrange for the preparation of carers and provide any support or explanations to them and the child about the independent visitor's functions. Explanation should not be left to the independent visitor.



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She will of course need to be sensitive in all her dealings with the child and his carers.

13.23 Independent visitors do not require supervision or day to day management – indeed such an approach might seriously prejudice their independence. However, they will require support. Many of the children they seek to befriend will have had a history of breakdowns of relationships. In these cases the independent visitor may have to overcome a barrier of cynicism and distrust before she can forge and maintain a good relationship with the child. She may welcome opportunities to discuss in a confidential setting individual situations or wider dilemmas perhaps being faced by a number of independent visitors. The task of the independent visitor may at times be stressful. Trusts should recognise this and, in considering the overall organisation of the independent visitor service, should consider how best to provide appropriate support.

Appointment

13.24 Trusts will need to take steps to avoid the risk that unsuitable persons who pose a serious threat to children's safety are inadvertently recruited. Appointment procedures need to be rigorous and formal. Applicants will need to submit detailed background information and provide the names of two personal referees. A check should be made of the DHSS Pre-Employment Consultancy Service (PECS) Register. Attention should be drawn to the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 as amended by the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 1987, which allows convictions which are spent under the terms of the 1979 Order to be disclosed by the police and to be taken into account in deciding whether to appoint the applicant. The applicant therefore may properly be requested to list all convictions and cautions and must give her permission in writing for a police check to be carried out. Where appointments are made the independent visitor should be provided with a letter of authority and arrangements should also be made for the provision of authenticated photographs for identification



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purposes. These should be withdrawn when the appointment is terminated.

Review and termination of appointment

- 13.25 The Trust will need to consider at each review under the Review of Children's Cases Regulations the appropriateness of the continuing appointment of the particular independent visitor and indeed of any independent visitor. The child's views will be highly relevant. The Trust will need to consider the most appropriate way of ascertaining the child's wishes about the continuation of an appointment which has been made. The older child should be given the opportunity from time to time to express his views about the value of the appointment. If he objects to it continuing and the Trust is satisfied that he has sufficient understanding to make an informed decision, the Trust must terminate the independent visitor's appointment in respect of that particular child (Article 31(6)). The Trust should then consider whether it would be appropriate to appoint another independent visitor.
- 13.26 The independent visitor ceases to be appointed if she gives notice in writing to the Trust who appointed her that she resigns the appointment or the Trust gives her notice in writing that it has terminated the appointment (Article 31(3)). Such a termination is in respect of an independent visitor's appointment to an individual child but may also signal that the Trust does not wish the independent visitor to be appointed again for any child. However, where an independent visitor is acting in respect of a number of children, termination of appointment in respect of one of them does not terminate appointment in respect of the others. Each case should be considered separately.
- 13.27 The Trust must act with the greatest care to avoid any suggestion that the termination of an independent visitor's appointment is a consequence of that visitor acting with appropriate independence and, for example, challenging the validity of the Trust's care planning or standards of service in respect of a particular child.



- 13.28 Where the independent visitor disagrees with the Trust's action regarding termination she may wish to make a formal representation and complaint (see the Representations Procedure (Children) Regulations). The Trust has discretion to decide whether the independent visitor is a person with sufficient interest in the child's welfare to warrant her representations being considered under Article 45(3)(e). The situation may also arise where, notwithstanding the Trust's wish to terminate the appointment, the child wishes it to continue on a friendship basis. The Trust, in considering the child's wishes, may conclude on balance that acceptance of such a position is acceptable provided the child's welfare is not endangered.
- 13.29 There may be exceptional circumstances where the behaviour of the independent visitor, whilst falling short of criminal activity, is nevertheless totally inappropriate and constitutes a serious risk to the child's welfare. Failure to terminate the independent visitor's appointment would amount to a breach of the Trust's duty to safeguard and promote the welfare of the child. In these circumstances the Trust should review any other current and all previous appointments of that person as an independent visitor and carry out such investigations as are necessary. The Trust should notify that person's particulars to the DHSS Pre-Employment Consultancy Service. As the child may well need particular help and support, consideration will need to be given to implementing child protection procedures.

The role and functions of the Independent Visitor

- 13.20 The functions of the independent visitor are set out in Article 31(2) of the Children Order and comprise visiting, advising and befriending the child. It is recognised that in some instances independent visitors may have qualities, skills, experience and qualifications which in other settings entitled them to undertake work in a professional capacity with children. In general, however, the role is envisaged as being undertaken by volunteers from a lay perspective. This section of the guidance discusses further the role of the independent visitor and also a range of specific functions which, depending on the



individual child and his circumstances, may have greater or lesser prominence.

13.31 How the independent visitor pursues her role in terms of a plan and timetable of more specific activities will vary depending on the circumstances. She will need to form her own judgements about how best to proceed. Taking into account the Trust's view of the child's needs, the child's wishes and her developing relationship with him, the independent visitor must reach her own conclusions as to how her activities might best be focused. Whatever she does should be directed at contributing to the welfare of the child and this includes promoting the child's developmental, social, emotional, educational, religious and cultural needs. This may require her to encourage the child to exercise his rights and to participate in decisions which will affect him. It will also include (unless she feels that there is clear evidence to act differently) supporting the care plan for the child and his carers, such as foster parents or residential social workers who have day to day care for the child.

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

Visiting

13.33 Face to face contact with the child is an important aspect of the independent visitor's role. The frequency and length of visits will depend on the circumstances of each situation and may change in the course of the relationship between the child and the independent visitor. A child may have often experienced the disappointment of the cancellation of an arranged visit from a parent or relative and the independent visitor will need to be particularly sensitive and reliable



in this regard. The independent visitor will need to make arrangements in advance about visiting with the child's carers as well as with the child himself.

- 13.34 As the relationship develops it may well be appropriate for the independent visitor and child to go out somewhere. The type of outing will depend on the child's interests and the range of facilities in the area. The independent visitor will need to be sensitive to avoid being regarded and treated as the person who simply provides "treats". It is not intended that the independent visitor should provide compensating leisure experiences which ought, more appropriately, to be the responsibility of the child's carers. However, such outings can afford privacy, ease communication and develop the relationship between independent visitor and child through a shared activity. There may be activities which the carers cannot provide, perhaps for example connected to the religious or cultural background of the child. The fact of the child being of a different religion or culture from that of the residential social workers or foster parents may not only influence the selection of an independent visitor but also her choice of the type of activity in which she involves the child. She may be able to promote contacts in the area relevant to the child's cultural development.
- 13.35 In exceptional circumstances it may be appropriate if the relationship with the child has developed, for the independent visitor to invite the child to her own home. Again, such a step must be seen with the overall care plans for the child and agreed with the Trust and carers with due sensitivity. This is not an area suited to spontaneous gestures. There are obvious dangers that the child's hopes for the future may be unrealistically aroused and carefully laid plans distorted. However, there is also a general principle that children in care should experience normal activities and they will know that other children in their class at school, for example, will often visit friends at their homes.
- 13.36 Similar arguments will apply, again in exceptional circumstances, where the independent visitor, child and Trust agree that an overnight stay or short holiday (perhaps with the independent visitor's



own family, if she has one) would be appropriate. Although the independent visitor has been the subject of formal checks on appointment (see paragraph 13.23), the Trust will have to make further checks before such an arrangement is agreed.

Advising

- 13.37 There will be a range of issues about which an independent visitor might offer the child advice. Some of these may be quite straightforward such as where to find, or who to ask for, particular information. The advising role becomes more complex where it overlaps with counselling and the responsibilities of other professionals involved with the child. It is not intended that the independent visitor should engage the child in intensive counselling. Independent visitors need to recognise that it is not their role to counsel or advise the child in complex situations. They should rather encourage and support the child to seek and accept help from his social worker in the first instance.

Befriending

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

Meetings with the Trust or other agencies

- 13.39 The involvement of the independent visitor in meetings or consultation processes is in some circumstances a legal requirement and in others is on a discretionary basis. The mandatory involvement is in respect of a child who has an independent visitor and who is in secure accommodation. Where the Trust intends to make an application to the court to keep a child in secure



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accommodation, the Trust has to inform a range of persons, including the child's independent visitor if one has been appointed, of the intention (regulation 9 of the Children (Secure Accommodation) Regulations). If the placement of the child in secure accommodation continues, regulations 10 and 11 require reviews to take place and the views of a range of persons to be sought unless this is not reasonably practicable. The independent visitor is included here and may be able to give her views in person, in writing or both. The independent visitor is also entitled to know the outcome of the review (regulation 11(3)).

- 13.40 The independent visitor will have the opportunity to provide contributions to the review of a child's case either in writing or at meetings where the child's case is to be discussed and to which she has been invited because she has something relevant to contribute or because the child has requested that she attend with him. The independent visitor will have to take care to distinguish between repeating what the child has asked her to say on his behalf, interpreting such information and offering her own view as to what is best for the child.
- 13.41 The child may wish the independent visitor to speak as a friend on his behalf in order to help resolve a particular issue or difficulty. This may involve the independent visitor's attendance at a meeting, perhaps a review meeting, or an oral hearing of a complaint being made under the representations procedure. Independent visitors do not constitute the independent element of the representations procedure, but the child might wish the independent visitor to accompany him in the capacity of a friend to an oral hearing convened under the representations procedure (see Chapter 12).
- 13.42 The Children Order also offers the opportunity for an independent visitor to contribute views outside the formal review arrangements. The child may be involved in family proceedings where the court has requested a welfare report (Article 4). Another possibility in relation to court proceedings is that a guardian ad litem has been appointed (Article 60). The views of the independent visitor about the child may well be of relevance to such proceedings where the court has



requested a welfare report (Article 4). Another possibility in relation to court proceedings is that a guardian *ad litem* has been appointed (Article 60). The views of the independent visitor about the child may well be of relevance to such proceedings and the independent visitor may need to take the initiative in seeking out the relevant person in order to convey her views. She will wish to consult with the child before taking such action.

Advocacy

13.43 In some situations, the position of the child may be an unhappy one. For example, the child may be dissatisfied with the current arrangements for his care or the absence of progress in achieving a plan for the future. He may disclose that he is being abused by his carers. In such situations the child has an urgent need for skilled advocacy. This is not a role the independent visitor is expected to play. Instead she must be able to recognise the needs of the child in serious situations and with his agreement draw his concerns to the attention of the child's social worker or, if necessary, a more senior officer in the Trust. In certain cases it may be appropriate to refer the matter to one of the voluntary organisations which specialises in advocacy.

Expenses

13.44 The independent visitor is entitled to recover reasonable expenses incurred in relation to her functions in visiting, advising and befriending the child from the Trust which appointed her (Article 31(2)(b)). The term "expenses" covers travel and out of pocket payments but is not meant to equate to a regular payment or salary. Whether anticipated expenditure may form a pattern or be a one-off amount, the Trust and independent visitor will need to reach some prior agreement about normal spending limits and authorisation for additional expenditure. The independent visitor will also need to keep records for the purpose of submitting expenses claims.



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When a child ceases to be looked after

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



CHAPTER 14: AFTERCARE: ADVICE AND ASSISTANCE

- 14.1 This chapter describes the statutory framework in Article 35 of the Children Order which deals with the duty of a Trust to prepare young people it is looking after for the time when they cease to be so looked after and the powers and duties of a Trust to provide after-care advice and assistance to such young people and certain other defined young people who were accommodated by other bodies. The guidance also deals with the preparation of children accommodated by or on behalf of voluntary organisations (Article 76(1)(c)) and those accommodated in privately run children's homes (Article 92(1)(c)).
- 14.2 The guidance describes young people as being "cared for" or "leaving care". This is intended to refer to the concept of caring rather than the young person's legal status; it encompasses all the young people referred to in the previous paragraph and it does so whether they are being cared for under voluntary arrangements or on a compulsory basis. Young people who are privately fostered are covered by the arrangements.
- 14.3 The successful re-integration of a young person with his family or other responsible person, or the establishment of the ability in the young person to become as self-supporting as possible, where this is necessary, is the culmination of a young person's experience in being care for by a trust, private foster parent, voluntary organisation or in a privately run children's home.
- 14.4 It is of vital importance that young people are properly prepared for this step and are given access to support afterwards. Young people coming towards this stage will do so from a wide variety of backgrounds and in a wide variety of circumstances, at various ages and with various levels of support available to them from families and friends. All of this implies the need for a very flexible service to meet such a wide range of potentially differing experiences and needs. The quality of preparation for leaving care, and of the aftercare



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subsequently provided, may profoundly affect the rest of a young person's life.

- 14.5 Whether or not the Trust has parental responsibility it adopts, in effect, part of the role of the parent of a child it is looking after and may provide subsequent advice and assistance. The Children Order provides powers and, in certain cases, places duties on each Trust to provide this help until a young person reaches the age of 21. (In certain cases, help given to meet expenses concerned with education or training may continue beyond a young person's 21st birthday – see Article 36(2) and (3).
- 14.6 In acting in this way, a Trust will wish to work in partnership with the young person's parents. This may not always be possible, for example, they may have died, or they may have rejected the young person or have been rejected by him. Similarly, if a young person has been fostered, the Trust will also need to work in partnership with the foster parents.
- 14.7 In discharging its responsibilities, each Trust will need to liaise with many other agencies, for example, with the Northern Ireland Housing Executive, education and library boards, careers advice and social security offices. The Children Order recognises the need for inter-agency liaison, and Article 46 gives the Trust, any education and library board, the Northern Ireland Housing Executive and any other person so directed by the Department. Any such request is bound to be complied with if it is compatible with the other agency's own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions. With this reservation, therefore, any such request must be complied with as far as possible.

The legal framework

- 14.8 The powers and duties of Trusts to prepare young people they are looking after for the time when they cease to be so looked after, and the provision of aftercare advice and assistance, are set out in Articles 35 and 36. A comparable duty to prepare young people for



the time when they are no longer cared for is also placed on voluntary organisations (Article 76(1)(c)) and those carrying on privately run children's homes (Article 92(1)(c)).

Articles 35 and 36: Trust's powers and duties

14.9 Broadly speaking, the powers and duties of Trusts in Article 35 cover all young people leaving a variety of forms of care when aged 16 or over and they continue until each young person reaches the age of 21.

Article 35(1): If a young person of any age is being looked after by a Trust, it is the duty of the Trust to advise, assist and befriend him so as to promote his welfare when he ceases to be looked after by it. Although this has always been a matter of good practice, it is now a duty.

Article 35(2): A Trust has responsibilities to advise and befriend any young person who "qualifies for advice and assistance". This applies to any young person aged under 21 who ceases, after reaching the age of 16, to be:

- (a) looked after by a Trust;
- (b) accommodated by or on behalf of a voluntary organisation;
- (c) accommodated in a privately run children's home;
- (d) accommodated by any education and library board, or in any residential care home, nursing home, hospital or prescribed accommodation (provided that he was accommodated for at least three months); or
- (e) privately fostered.

Article 35(3): Article 35(2)(d) applies even if the three month period began before the young person reached the age of 16.



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Article 35(4) and (5): Where a Trust knows that a person described in Article 35(2) is in its area, it has:

- (a) a **duty** to advise and befriend him if he was formerly looked after by a Trust or accommodated by or on behalf of a voluntary organisation; and
- (b) a **power** to advise and befriend him in all other cases provided that:
 - the young person has asked for such help;
 - the Trust considers that he needs to be advised and befriended; and
 - the person who formerly looked after him (if not the Trust) does not have the necessary facilities for advising and befriending him.

Articles 35(6) and 36(1): If a Trust has a duty or is empowered to advise and befriend someone, it may also give him assistance. This assistance may be in kind or, in exceptional circumstances, in cash.

Article 36(2): A Trust is also empowered to give assistance to anyone who “qualifies for advice and assistance” and who was formerly looked after by the Trust (Article 35(2)(a)) in the following ways:

- by contributing to expenses incurred by him in living near the place where he is, or will be, employed, or seeking employment, or in receipt of education or training; or
- by making a grant to enable him to meet expenses connected with his education or training.

Article 36(3): If a Trust is making a contribution or grant under Article 36(2) to meet expenses connected with education or training, it may continue to do so until the end of the course, even if the young



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person reaches the age of 21 before the end of the course. It may also disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.

Article 36(4): Assistance given by a Trust under Article 35 may be given unconditionally or may be repayable in part or in whole. However, no one shall be liable to repay any assistance at any time when in receipt of income support, family credit, disability working allowance or an income-based jobseeker's allowance. Before giving any assistance or imposing any conditions about repayment, the Trust shall take into account the means of the young person concerned and of each of his parents. (These conditions do not apply to assistance given under Article 36(2), which is always unconditional and not repayable.

Article 37(1): Every Trust shall establish a procedure for considering any representations (including any complaint) made to it by a person qualifying for advice and assistance about the discharge of its functions under Part IV of the Children Order in relation to him. This will (inter alia) allow young people to complain if they consider that the Trust has not given them adequate preparation for leaving care, or adequate aftercare. It will enable them to make a complaint even if they have left the care of the Trust or another agency. (The general complaints procedure specified in Article 45(3) only applies to a young person who is a "child", ie under 18 years of age).

Article 37(3): If a Trust has been advising and befriending a young person under Article 35 and becomes aware that he proposes to live, or does live, in the area of another Trust, it must inform the other Trust.

Article 37(4): If a young person ceases, after reaching the age of 16, to be accommodated:

- (a) by or on behalf of a voluntary organisation or in a privately run children's home ; or



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- (b) as mentioned in Article 35(2)(d);

then the organisation or person providing the accommodation must inform the Trust in whose area the young person proposes to live.

14.10 Transitional arrangements: These are set out in paragraph 17 of Schedule 8 to the Children Order. Under these arrangements, a Trust's powers and duties under Articles 35 and 36 extend to any young person who:

- left voluntary or compulsory care or ceased to be subject to a training school order before the Children Order came into force (see paragraphs 11(1), 15(1) and 30(1) of Schedule 8 to the Children Order);
- was at least 16 when he left care; and
- is not yet 21.

These transitional arrangements will be in force for five years, ie until anyone qualifying for advice and assistance under these arrangements has reached his 21st birthday.

Articles 76(1)(c) and 92(1)(c): Duties of voluntary organisations and privately run children's homes

14.11 Article 76(1)(c) stipulates that were a young person is accommodated by or on behalf of a voluntary organisation, it is the duty of that organisation to prepare the young person for the time when he ceases to be so accommodated. The voluntary organisation does not have a statutory duty to provide aftercare for the young person once he has ceased to be accommodated by the organisation or on its behalf. However, it is desirable to link the provision of care with that of aftercare. As a matter of good practice, the voluntary organisation should consider the provision of

appropriate aftercare services for any young person ceasing to be accommodated by it, or



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on its behalf, after reaching the age of 16. Trusts should therefore encourage the provision of such services by all voluntary child care organisations within their area.

14.12 In addition, a voluntary organisation has a duty under Article 37(4) to inform the Trust if it is ceasing to accommodate a young person aged 16 or more. The Trust so informed will be the Trust in whose area the young person proposes to live after ceasing to be accommodated by the voluntary organisation.

14.13 The voluntary organisation will need to inform the Trust as early as possible, ie as soon as it is known on what date the young person will cease to be accommodated by the organisation or on its behalf. This will alert the Trust to the fact that it may have a responsibility to provide aftercare for the young person under Articles 35 and 36 (see Article 35(5)(b)). The voluntary organisation should also keep the young person informed at all stages, by telling him as early as possible when he is likely to cease to be accommodated by the organisation and by letting him know what provision for aftercare will be made and by which agency.

Privately run children's homes

14.14 Under Article 92(1)(c) similar duties to those listed above will apply to privately run children's homes.

Principles underlying preparation for leaving care

14.15 The principles underlying preparation for leaving care should reflect good child care practice generally, following the principles of the Children Order:

- services for young people must take account of the lengthy process of transition from childhood to adulthood, to reflect the gradual transition of a young person from dependence to independence. The support provided should be, broadly, the support that a good parent might be expected to give;



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- young people should be fully involved in discussions and plans for their future. Well before a young person leaves care, a continuing care plan should be formulated with him. This should specify the type of help the young person will be receiving and from whom. This plan should incorporate contingency arrangements in the event of a breakdown in the young person's living arrangements after he has left care since such breakdowns in arrangements are not uncommon. Such arrangements might include, for example, the possibility of a return to a children's home/foster care;
- parents should be invited to help formulate the plan (if they are not estranged from the young person). So too, should foster parents if the young person is leaving a foster placement (whether Trust or private);
- preparation for leaving care should help develop a young person's capacity to make satisfactory relationships, develop his self-esteem and enable him to acquire the necessary practical skills for independent living;
- in helping young people to develop socially and culturally, carers must be prepared to take some risks and to take responsibility for doing so; to let young people take some risks, eg in attempting relationships that do not work; and to take responsibility for supporting young people through breakdowns in relationships;
- all preparation for leaving care and provision of aftercare must take account of the religious persuasion, racial origin, cultural and linguistic background and other needs of a young person (Article 26(3)(c));
- preparation for leaving care and the provision of aftercare must be planned in conjunction with all other interested agencies, eg education and library boards, Northern Ireland Housing Executive and, where appropriate, other Trusts.



These agencies should be invited to contribute to a young person's continuing care plan.

Trusts' written policies on leaving care

- 14.16 Each Trust should take the above principles into account in developing leaving care and aftercare policies and in applying those policies to the needs of individual young people.
- 14.17 To help ensure this, each Trust should provide a written statement of its philosophy and practice on the preparation of young people for leaving care and the provision of aftercare support. Paragraph 2(1) of Schedule 2 to the Children Order requires each Trust to publish information about services provided by it under Articles 35 and 36 and take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the relevant information. The statement should be comprehensive, acknowledging the different leaving care and aftercare needs of different young people, according to their age, sex and maturity. It should take into account the special needs of certain groups of young people, eg young people with a disability and those with a statement of special educational needs (see paragraphs 14.24-14.33 below), pregnant girls and girls with young babies and young people from a range of cultural, racial and linguistic backgrounds. The statement should be revised periodically. It is suggested that three-yearly revisions would be appropriate.
- 14.18 The statement should cover the role of other agencies who should be asked to provide contributions to the statement on the part they play in the preparation of young people leaving care and the provision of aftercare. They should be invited to revise their contributions to the statement when the statement itself is being revised by the Trust. The roles of other agencies are considered in more detail below.
- 14.19 The statement should be informed by the views of the young people who are, or have been, cared for in those ways referred to in Articles 35 and 36 (paragraph 14.9). There should be a formal means of ensuring that the Trust continues to take their views into account,



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both when the statement of policy is being revised and at other times. One way of doing this might be to encourage young people who are being, or have been, cared for, to set up their own groups. Such groups would also enable these young people to meet each other and discuss matters of common interest and would help to overcome the common problem of loneliness felt by many young people who have left care. The Trust might also consider establishing a newsletter or other means of communication to inform young people who are being, or have been, cared for and to seek their views on matters such as these.

- 14.20 It would also be desirable for the statement to take account of the views of parents and by those of foster parents where a young person is or was fostered privately or by the Trust. There may be no formal mechanism for seeking these views, particularly since a Trust may have responsibility for providing aftercare for a young person whom it did not look after. However, a Trust may wish to consider obtaining a sample of views from parents and foster parents whenever a statement is prepared or revised. This might be done by sending copies of the statement to the parents and foster parents of at least some of the young people looked after by the Trust itself and seeking their comments on it.
- 14.21 The statement should be drafted so as to be easily comprehensible to young people and to their parents and foster parents. The Trust will need to provide translations of the policy statement in relevant minority languages. It will also need to consider how to provide the statement in versions that can be understood by young people with communication difficulties.
- 14.22 Each Trust should provide an easy to read guide to its services for young people when they leave care. Like the policy statement, this should include a brief guide to services available from other agencies, based on information provided by those other agencies. The guide should be informed by the views of young people who are being, or have been, cared for, and their parents and foster parents. Where appropriate, the guide should be produced in languages other than English where there is an identified need. Trusts will also need



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to consider how to provide the guide in a form that can be understood by young people with communication problems.

14.23 The guide should include the following information:

- the advice and befriending services available to young people who have left care, under Article 35(2);
- the Trust's policy and practice on making payments in case or in kind, under Articles 35(6) and 36(1) and (2) to young people who have left care;
- the nature of the help, including financial advice, that other agencies can give in preparing young people for leaving care and supporting them when they have left care; and the ways in which young people can obtain this help;
- details of youth counselling services run by the Trust or the voluntary sector;
- the Trust's policy on giving young people access to their social services records;
- the Trust's complaints procedure, under Articles 37(1) and 45(3) in case any young person considers that he is being denied appropriate advice and assistance;
- the name, address and telephone number of a contact point in each of the agencies mentioned in the guide.

Young people with a disability – particular needs

14.24 Young people with a disability may have particular needs over and above those of other young people who are being cared for. It is essential to ensure that these needs are met when preparing these young people for leaving care and providing aftercare. Efforts must be made to ensure that these young people do not fail to achieve



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their full potential as a result of under-expectation on the part of those caring for them.

- 14.25 The following paragraphs refer specifically to the responsibilities of Trusts. However, apart from paragraphs 14.30-14.33, they also apply to voluntary organisations and privately run children's homes who have a duty to prepare young people whom they are caring for, for the time when they leave care and who may also provide aftercare for these young people.
- 14.26 Trusts should ensure that they have access to information on special resources and services necessary to meet the needs of young people with a disability who are leaving care. They will also need to liaise closely with education and library boards to ensure that the particular needs of these young people are met at all times and 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 to enable better communication between young people with a disability and the various agencies.
- 14.27 Trusts will need to note that they have a duty to assist education and library boards with the provision of services for any young person who is subject to a statement of special educational needs (Article 46(5)).
- 14.28 Trusts will also need to liaise with the Northern Ireland Housing Executive on the housing needs of young people with a disability. They should ask the Housing Executive to consider the particular needs of these young people who are leaving care.
- 14.29 In discharging these responsibilities, Trust will need to take account of their powers and duties under other legislation as set out below. These powers and duties are not, of course, limited to young people who are being looked after by a Trust. Voluntary organisations and privately run children's homes may therefore consider what help the Trust can give, under the legislation referred to below, to young



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people whom they themselves are preparing for leaving care or providing aftercare.

- 14.30 Section 2 of the Chronically Sick and Disabled persons (Northern Ireland) Act 1978 places a duty on each Trust to provide various welfare services to any person living within its area if this is necessary in order to meet the needs of that person. Sections 5 and 6 of the Disabled Persons (Northern Ireland) Act 1989 are also relevant since they are designed to ensure a smooth transition from full-time education to adult life for a young person who is subject to a “statement of special educational needs”. Their effect is to require the relevant education and library board to obtain the view of the Trust as to whether such a young person is disabled. This is done at the first annual review of the statement of special educational needs, or the first reassessment of the young person’s educational needs, following the young person’s 14th birthday. If the Trust does consider that the young person is disabled it must assess his needs before he leaves full-time education to decide what services it has a duty to provide him with (see the relevant sections of the Disabled Persons (Northern Ireland) Act 1989 for details).
- 14.31 Trusts should also provide communication support for all young people who require it. This could take the form, for instance, of text telephones or interpreters.
- 14.32 When a child is being looked after by a Trust and placed in accommodation which provides education on the premises, the Trust is required to inform the appropriate education and library board when the child leaves that accommodation (Article 47(3)). In deciding the young person’s future needs, the Trust should continue to liaise with the education and library board, which is responsible for providing facilities for further education.
- 14.33 Specific health requirements may continue into adulthood. The transition from child to adult health services is not always easily made by a young person, who may well require help and support from the Trust acting as a “good parent”.



The nature of preparation for leaving care

14.34 There are three broad aspects to preparation for leaving care:

- enabling young people to build and maintain relationships with others
- enabling young people to develop their self-esteem; and
- teaching practical and financial skills and knowledge.

Enabling young people to build and maintain relationships with others

14.35 The capacity to form satisfying relationships and achieve inter-dependence with others is crucial to the future wellbeing of the young person. With such a capacity, he is much more likely to cope with the transition to adulthood and the special difficulties associated with leaving care. It is crucial, therefore, that the experience of being cared for provides both the opportunity for such personal development and the attention that is required when special help is needed. This experience should be planned so as to cover the following points:

- changes in care placements should be kept to the minimum consistent with the young person's welfare. This will provide continuity of care and of relationships, thereby showing young people how to relate to others;
- social workers as well as other young people who are being cared for, will therefore be able to help a young person to relate to other people;
- however, a young person's friends should not all come from the care system since, if they do, he may be very lonely when he leaves care. It is, therefore, well worth encouraging young people who are being cared for to make friends with



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young people outside the care system, eg through school or local youth clubs;

- young people who are being cared for should also be encouraged to develop friendships with suitable adults outside the care system who can provide role models. Volunteer adult befrienders who have been carefully vetted through a volunteer befriending scheme and who can stay in touch with a young person after he has left care can play a very important role in this situation. The befriender will need to be “matched” with the young person, eg he should preferably be from the same religious, cultural, linguistic and racial background. It is desirable for the young person to decide who is to act as his befriender. The befriender should be prepared to give time to his task; should be remunerated if appropriate; and should be allowed to make contributions to reviews and on other occasions, if the young person so wishes (see also Chapter 13 – “Independent Visitors”);
- the foster parents of a fostered young person should also be encouraged to continue to take an interest in him even when the fostering placement has ended;
- a young person’s parents (and his relatives generally) should also be encouraged to stay in touch with him unless this would not be in his best interests;
- young people from ethnic minorities will need to have contact with adults and young people from their own cultural background and may find it helpful to be put in touch with youth clubs or other voluntary organisations set up for people from their cultures;
- young people with a disability may have particular needs, and it may be useful to refer them to suitable materials, and to voluntary organisations for people with a disability, to support them in finding friends and developing social skills.



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The process of preparation should ensure that when a young person does leave care, he has a supportive network of friends, many of whom will be from outside the care system and that he is well equipped to enter into relationships with others.

- 14.36 A Trust, in preparing a young person for leaving care, should also take account, where appropriate, of the need to enable the young person to relate better to his own family. Indeed, the Trust has a duty to make arrangements to enable a young person whom it is looking after to live with parents, relatives or friends “unless that would not be reasonably practicable or consistent with his welfare” (Article 27(7)). Even if it is proved to be impracticable or undesirable to make such arrangements, any improvement in relationships between a young person and his family that can be achieved is usually to be welcomed and will contribute to the young person’s capacity to cope in adult life. Similarly, general contact with family and friends should be promoted where consistent with a young person’s welfare (Article 29). Similar responsibilities are reflected in the duties of voluntary organisations and persons carrying on privately run children’s homes under regulation 6 of the Arrangements for Placement of Children (General) Regulations (see Chapter 9).
- 14.37 The experience of being cared for should also include the sexual education of the young person. This may, of course, be provided by the young person’s school, but if it is not, the Trust or other caring agency responsible for the young person should provide sexual education for him. This is absolutely vital since sexuality will be one of the most potent forces affecting any young person in the transition from childhood to adulthood.
- 14.38 Sexual education will need to cover practical issues such as contraception, particularly in view of the spread of AIDS. However, it must also cover emotional aspects of sexuality, such as the part that sexuality plays in the young person’s sense of identity, the emotional implications of entering into a sexual relationship with another person and the need to treat sexual partners with consideration and not as



objects to be used. The emotional and practical implications of becoming a parent also need to be explained in some detail.

- 14.39 The fact that young people with a mental or physical disability have sexual needs should be acknowledged and young people who have been abused, or have been in touch with abused young people, may need special counselling if they are not to regard sexual feelings as a matter for shame or to regard sexual relationships as impersonal and exploitive. The needs and concerns of homosexual young men and women must also be recognised and approached sympathetically.

Enabling young people to develop their self-esteem

- 14.40 It is necessary to encourage young people, from the day they begin to be cared for, to value themselves, to regard their experience of being cared for without embarrassment and to be able to explain calmly to other people why they are being cared for and how they feel about it. It is particularly helpful if young people are told as much as possible about their family background and about all aspects of their cultural and individual identity and any physical or mental disability. It is also helpful for young people to understand how they came to be cared for. A young person's individual identity and his cultural background should be presented to him in a positive light and not as something about which he should feel defensive. The use of life-story books may be helpful in achieving this end, but Trusts and other caring agencies will need to note that young people should be enabled to accept themselves emotionally and not simply intellectually.

- 14.41 Some young people leaving care will need preparation in practical and financial skills eg:
- how to shop for, prepare and cook food;
 - eating a balanced diet;
 - laundry, sewing and mending and other housekeeping skills;



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- how to carry out basic household tasks such as mending fuses;
- safety in the home and first aid;
- household budgeting;
- health education, including personal hygiene;
- sexual education, including contraception and preparation for parenthood;
- applying and being interviewed for, a job;
- the rights and responsibilities of being an employee;
- applying for a course of education or training;
- applying for social security benefits;
- applying for housing and locating and maintaining it;
- registering with a doctor and dentist;
- knowledge of emergency services (fire, police, ambulance);
- finding and using community services and resources;
- the role of agencies such as the Citizens Advice Bureau, local councillors and MPs;
- how to write a letter of complaint or to seek advice.

14.43 Young people who are being cared for should start to learn self-help skills at a basic level when entering their teens and should be well advanced in them by the time they leave care. Young people with a disability may need additional specific training and rehabilitation



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programmes to enable them to acquire these skills and to promote their independence.

Help after leaving care

14.44 Most young people will continue to need some help after they have left care. The continuing needs of young people may include any or all of the following examples:

- advice and information;
- a continued interest in their welfare, possibly from a person assigned to advise and befriend the young person;
- assistance in case or in kind;
- a return to care, if necessary;
- education and training;
- accommodation.

14.45 It is desirable to monitor aftercare schemes and evaluate them. This should be done at regular intervals. The Trust should include in these exercises representatives of the groups set up by young people who are being, or have been, cared for. This will ensure that the views of young people continue to be heard.

14.46 Young people may move to a different part of the country after leaving care and it is important to ensure that they do not fall through the net of Trust support if they require it. The Trust that has been helping them must inform the Trust into whose area they have moved (Article 37(3)), and in doing so should inform that other Trust of any particular needs of the young person. The other Trust will then assume the relevant powers and duties under Articles 35 to 37.



The delivery of services

- 14.47 Where Trusts have established separate aftercare teams, it is important that the person who has been most closely involved with the young person whilst in care maintains contact and provides continued support directly to him as well as contributing to the team's planned approach. This will necessitate close liaison between those responsible for fostering and residential child care services, the field social worker, the child and, where appropriate, the child's parents. The principle that preparation for leaving care is to be regarded as an integral part of any care placement from the outset should underpin the development of specialist services.
- 14.48 In discharging the responsibilities outlined above, the "key" person working with a particular young person will need to liaise closely with any services provided by the Trust or the voluntary sector for young people with special needs, eg those who are disabled.
- 14.49 It is important that managers provide sufficient time and resources for staff, including residential social workers, to undertake and develop the necessary skills associated with leaving care and continuing support. Trusts should take account of the need to train staff to do this difficult job properly.
- 14.50 The guidance given above relates to the Trust's own responsibilities. However, the Trust's policy statement on leaving care and aftercare services needs to refer to the role of other agencies in helping young people who are leaving care. In this connection the Trust will wish to note the help that it can require from other agencies under Article 46.
- 14.51 These other agencies will include those who are caring for young people, who might be encouraged to assumed responsibility for preparing the young people they are caring for, for the time when they leave care (voluntary organisations and privately run children's homes do, of course, have a duty to do this). Trusts will also wish to encourage them to provide aftercare for young people who have left their care.



Provision of financial assistance

- 14.52 The primary income support role lies with the social Security Agency. However, Trusts may also give financial assistance to young people leaving care. Where a Trust has either a duty or a power to advise and befriend young people who have left care (Article 35(4)) it may also give assistance which may be in kind or, in exceptional circumstances, in cash (Articles 35(6) and 36(1)). Many young people leaving care, particularly those who are required to live independently because they have no family home to return to, can face very severe financial difficulties at this time – both immediately and during their transition to full independence. It should be borne in mind that the Trust's power to provide assistance extends until every young person referred to in Article 35(2) reaches the age of 21. Where a young person has no parent to turn to for help, or where a parent does not have the capacity to provide assistance, it is to be expected that the young person will turn to the Trust which has in many cases been a major influence in his life for such help.
- 14.53 Trusts are encouraged to be pro-active in advising young people of the circumstances in which assistance can be provided and to take into account the fact that the reference to the provision of financial assistance "in exceptional circumstances" in Article 36(1) refers to the individual young person rather than the general policy of the Trust. It will be for the Trust to decide in each case whether the provision of financial assistance would be appropriate, but the presumption should be that such assistance should be provided where this is necessary to protect the young person's welfare and it cannot be made available by any other agency.
- 14.54 In addition to the general powers to provide assistance under Article 35(6) Trusts have a specific power to provide financial assistance to young people they formerly looked after where this is connected with the young person's further education, employment or training (Article 36(2)). This provision enables a Trust to contribute towards the costs of accommodation which enables the young person to live near the place where he is employed, seeking employment, or receiving education or training. It should be noted



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that “the exceptional circumstances” qualification to the provision of cash assistance in Article 36(1) does not apply to assistance given under Article 36(2) nor are the provisions of Article 18(7)-(9) applied in such cases (Article 36(4)). Bearing in mind the serious problems experienced by many young people in obtaining suitable and affordable accommodation, and the importance to be attached to the ability of young people to gain stable employment or further their education. Trusts are encouraged to exercise their powers under Article 36(2) flexibly. Provision is also made for a Trust to make grants to young people to help them meet expenses connected with their further education or training (for example the purchase of books, tools or materials). It should be noted that such financial assistance or grant provided under Article 36(2) where this is connected to a course of education or training, may continue even though the young person reaches the age of 21 before completing the course (Article 36(3)).

- 14.55 It should be noted that financial assistance provided under Articles 35-37 is disregarded for the purposes of calculating entitlement to income support, family credit, disability working allowance or an income-based jobseeker’s allowance. It is also disregarded in assessing the maintenance grant of a student on a designated course. It is important to note that a young person does not have to qualify for the above mentioned benefits before being given financial assistance under Articles 35-37.

The role of the voluntary sector

- 14.56 An important aspect of the voluntary sector’s role lies in the aftercare services provided by it. Although voluntary organisations are not under a duty to provide these services, Trusts will wish to encourage them to provide for young people for whom the organisations formerly cared. In some cases, Trusts will also be able to “purchase” aftercare services from voluntary organisations to help young people whose care was not provided by those organisation. Trusts are therefore encouraged to liaise with voluntary organisations in their areas to make use, where appropriate, of any aftercare services they may offer (see in particular Article 18(5)).



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- 14.57 These aftercare services may include: drop-in centres; counselling; advocacy for young care-leavers – both individually and as a group and various forms of accommodation, eg sheltered and half-way housing, refuges for young people at risk, supported lodgings and continued foster care. The role of housing associations in providing suitable accommodation is particularly important. So too, is the specialised information and advice that voluntary organisations can give to young people with a wide range of disabilities. It is important for Trusts and other caring agencies to put young people with a disability in touch with the appropriate voluntary organisations in order to provide them with additional opportunities for involvement with particular self-help or interest groups.
- 14.58 Trusts will also wish to bear in mind the help that young people leaving care can obtain from the Northern Ireland Housing Executive through its network of district offices and, in the case of Belfast, through its Homeless Advice Unit. In addition, help and advice is also available from the Housing Rights Service and the Citizens Advice Bureau as well as the voluntary sector providers of accommodation such as the Simon Community, Salvation Army and Open Door Housing Association.

The role of the probation service

- 14.59 A minority of young people who are being or have been cared for will have committed criminal offences. Some of these young people will be subject to a probation order or a supervision order under the Children and Young Persons Act (Northern Ireland) 1968 designating the probation service as the supervisor. The probation service is naturally concerned to ensure, as far as possible, that these young people do not re-offend. In trying to achieve that aim, it will concern itself not only with a young person's offending and its consequences but with his development into a self-reliant adult who has "grown out" of offending. It is therefore important for each Trust to consult the probation service when drawing up its written statement of policy on leaving care and aftercare services and to cover the role of the probation service in the document. It is also necessary for the Trust



or other caring agency to involve the probation service closely when preparing one of these young people for leaving care or providing him with aftercare.

Accommodation for young people

14.60 Each Trust has certain duties under Article 21(1) to provide accommodation for any child in need within its area who appears to require accommodation as a result of:

- there being no person who has parental responsibility for him;
- his being lost or abandoned; or
- the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

14.61 A Trust must also provide accommodation for any child in need in its area who has reached the age of 16 and whose welfare the Trust considers is likely to be seriously prejudiced if it does not provide him with accommodation (Article 21(3)). If a Trust considers that such a course would safeguard or promote the child's welfare it may (under Article 21(4)) provide accommodation for any child (ie not necessarily a child in need) in its area even though a person with parental responsibility is able to provide accommodation for him. Under Article 21(5) a Trust may also provide accommodation for young people aged 16-20 in its area if this is necessary to safeguard or promote their welfare.

The role of the Northern Ireland Housing Executive

14.62 The accommodation which a Trust provides under Article 21 will be in a care setting. Article 2(8) of the Children Order makes clear that all references to the provision of accommodation by a Trust relate to the various types of accommodation listed in Article 27(2). When a young person leaves care, it may not be possible for him to return to



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his family and he may require housing. The primary responsibility for housing lies with the Northern Ireland Housing Executive (NIHE). Close liaison between Trusts and the NIHE is necessary. It is suggested that liaison should take place between the designated senior officer in the Trust and designated officers in NIHE to agree the arrangements for referring young people to the latter. The NIHE's policies on these issues will, of course, need to be spelt out in its contribution to the Trust's written statement of leaving care and aftercare services and in its easy-to-read guide to those services.

The role of the youth service

- 14.63 Trusts will wish to note the help that the youth service – both statutory and voluntary – can give to young people who are being, or who used to be, cared for. This help may include advocacy of the interests of individual young people. More particularly, the youth service can offer support to vulnerable young people and give them the opportunity of extending their social network outside the care system. Young people with a disability may need advice and help to enable them to integrate into local youth services and they may need to be enabled to use special youth services (eg deaf clubs) if they think these are right for them.
- 14.64 Young people from ethnic and cultural minorities may also find the youth service particularly helpful in enabling them to meet other young people, and adult youth leaders, from their own ethnic and cultural background.

The role of the school

- 14.65 It is essential that every effort be made to enable a young person to fulfil his potential and to reduce the degree of disadvantage experienced by many of those leaving care. It is important for schools to be aware of the dangers of under-expectation regarding the academic potential of young people who are being cared for and to ensure that such young people are given every encouragement to obtain academic qualifications and to develop their emotional, social and intellectual potential. Young people who are under-achieving at



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school will need attention to remedy this well before they leave care. The role of the Trust or other caring agency in this is that of a good parent. In exercising parental responsibility the young person's carer should ensure that the school is made fully aware of all relevant information regarding the young person's abilities and interests and that the school receives the support and reinforcement that would be expected from a concerned parent. Such support should include supervising homework and attending meetings at school with teachers, head teachers and careers staff.

- 14.66 The Trust or other caring agency should also encourage the young person to continue his education beyond the minimum school-leaving age unless he will quite clearly not benefit from this. It is important to note that a lot of children with a disability, including many with impaired sight, hearing or speech are quite capable of benefiting from further education and should be encouraged to undertake it. They may, of course, need special facilities such as interpreters, note takers and readers. Further guidance on children with a disability is contained in Volume 5 in this series.
- 14.67 Like any other young person, a young person who is being cared for will receive careers education and guidance at school. The Trust or other caring agency should ensure that this is received in good time, is appropriate and includes advice on the possibilities of undertaking a course of further education. The young person's carer should be involved in considering such advice and should discuss the available options with the young person, assisting him to reach a considered decision in full knowledge of the short- and long-term advantages and disadvantages of any choice.

Training

- 14.68 Training and education should not be regarded as distinct and separate activities. However, training is covered separately from education in this guidance in order to explain the role of the different agencies concerned.



14.69 The Trust or other caring agency involved should be ready to inform the young person of the existence of training, eg Youth Training (YT) and training schemes geared to a particular occupation. Although it will not be able to advise in detail on such training schemes, it should be able to refer the young person to those best able to advise him. This referral may be to the school careers advisory service, the local careers officer (for Youth Training) and the relevant occupational body for schemes geared to a particular occupation. If the young person has a disability, it may be useful to refer him to a Disablement Resettlement Office at a job centre.

The role of the Careers Service

14.70 The Careers Service provides the link between the worlds of work and further education. It is a prime source of contact for employers, training providers, teachers, those involved in higher and further education and others responsible for helping young people. The Careers Service aims to ensure that young people understand all the options open to them, including both the short-term and the long-term prospects in any particular career, so that they can make informed choices. The Careers Service gives information to young people on employment and training opportunities; it is the main placing agent with YT and it gives young people information on what YT programmes are available. Careers Officers work closely with careers teachers in schools and generally contact pupils in their third year at school. Trusts and other caring agencies will, as good parents, need to ensure that all young people whom they are caring for do receive this advice from the Careers Service. Young people with a disability should receive careers advice like other young people in care. It is important to ensure that they are not advised to take up an undemanding job unless their disability really does prevent them from embarking on a challenging career.

Returning to take up courses of education or training

14.71 Trusts should advise those who have left school without qualification that it is not too late for them to remedy this situation and they may wish to provide advice on finance for educational and training



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courses. If the Trust is still exercising parental responsibility, the carer might support the young person by attending meetings at the school to discuss an appropriate programme of study. The Trust may also need to liaise with the education and library board which has responsibility for further education.

Trust assistance to young people receiving education or training, or employed, or seeking employment

- 14.72 Trusts should bear in mind the powers they have to assist young people who left Trust care when aged 16 or over and who are employed, seeking employment, or in receipt of education or training (Article 36(2)). These powers last until a young person reaches the age of 21 and they can therefore be invoked well after the young person has left the Trust's care.

Social security benefits

- 14.73 Trusts' powers to give assistance in cash or in kind are designed to meet the special needs of young people leaving care. They are not designed to duplicate the social security system.
- 14.74 However, Trust should advise young people who are in, or have left, care on the social security benefits they may be entitled to and the way in which they can claim them. This can most easily be done by obtaining the relevant social security leaflets from the local social security office, or material specially prepared for young people by youth organisations, and making them available to the young people concerned as a first step. This material should be made available in other languages where appropriate. Regulations for awarding income support to 16 and 17 year olds are very stringent and are linked to the provision of Youth Training (YT) placements. Specialist advice is sometimes required to ensure that young people receive their full entitlement and where advice is not readily available within a Trust, reference to an agency such as the Citizens Advice Bureau should be considered.



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- 14.75 If a young person has a disability, advice on benefits for disability should be available as a priority. If the Trust has a welfare rights officer, he should be able to give this advice. The services of an interpreter may be necessary if the young person's disability involves problems in communicating.
- 14.76 Trusts will wish to note that any payments made to a young person under Articles 35-37 are not regarded as a part of his income or capital when calculating his entitlement to income support, family credit, disability working allowance or an income-based jobseeker's allowance.



CHAPTER 15: SECURE ACCOMMODATION

Statutory framework for restriction of liberty

- 15.1 Article 44 sets out the statutory criteria which must be met before a child can be placed or kept in secure accommodation. The associated regulations, the Children (Secure Accommodation) Regulations, are at Annex G. The purpose of the statutory framework, which governs the restriction of liberty of children being looked after by Trusts, is to protect them from unnecessary and inappropriate placement in secure accommodation. It also ensures that administrative decisions taken by the Trust or others within that framework are scrutinised and endorsed by the court where the placement in secure accommodation is for longer than a specified period (see paragraph 15.9 below). In this chapter references to regulations are to the Children (secure Accommodation) Regulations unless otherwise stated.

Children to whom Article 44 and the secure accommodation regulations apply

- 15.2 The statutory safeguards apply to all children looked after by Trusts (ie children in the care of the Trust or provided with accommodation by the Trust). Regulation 3 excludes certain children looked after by a Trust from the provisions in Article 44. Regulation 3(1) excludes children detained under any provision of the Mental Health (Northern Ireland) Order 1986. For such children lawful authority already exists to restrict liberty, if considered appropriate in exceptional circumstances. Regulation 3(2) describes children who may not have their liberty restricted in any circumstances – these are 9a) people aged 16 or over but under 21 provided with accommodation in any home under Article 21(5), and (b) children subject to a child assessment Order under Article 62.

Criteria for restriction of liberty under Article 44

- 15.3 Article 44 of the Children Order provides that a child to whom the Article applies shall not be placed or kept in secure accommodation unless it appears that:



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- “(a) (i) he has history of absconding and is likely to abscond from any other description of accommodation; and
- (ii) if he absconds, he is likely to suffer significant harm; or
- (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.”.

It should be noted that by virtue of Article 2(2) the question of whether harm is significant is to be determined in accordance with Article 50(3). It should also be noted that **it is unlawful for the liberty of a child to whom Article 44 applies to be restricted unless one of these criteria is met, no matter how short the period. Similarly, a child must not continue to have his liberty restricted once the criteria cease to apply, even if there is a court order authorising restriction of liberty currently in existence.**

Definition of “restriction of liberty”

- 15.4 The interpretation of the term “accommodation provided for the purpose of restricting liberty” in Article 44(1) (secure accommodation) is ultimately a matter to be determined by the court. However, it is important to recognise that any practice or measure which prevents a child from leaving a room or building of his own free will may be deemed by the court to constitute “restriction of liberty”. For example, while it is clear that the locking of a child in a room, or part of a building, to prevent him leaving voluntarily is covered by the statutory definition, other practices which place restrictions on freedom of mobility (for example, creating a human barrier) are not so clear cut. In the latter case legal advice should be sought in the first instance as to the legality of the practice or measure.

Placements in secure accommodation

- 15.5 Secure accommodation has an important role to play amongst the range of residential services and facilities provided by Trusts. In



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terms of the safety and security of the premises, the skills and enhanced levels of staff available and the specialist programmes which can be provided, a secure placement may be the most appropriate and only, way of responding to the likelihood of a child suffering significant harm or injuring himself or others. **However, restricting the liberty of children is a serious step which must be taken only when there is no appropriate alternative. It must be a “last resort” in the sense that all else must first have been comprehensively considered and rejected – never because no other placement was available at the relevant time, because of inadequacies in staffing, because the child is simply being a nuisance or runs away from his accommodation and is not likely to suffer significant harm in doing so, and never as a form of punishment.** It is important, in considering the possibility of a secure placement, that there is a clear understanding of the aims and objectives of such a placement and that those providing the accommodation can fully meet those aims and objectives. Secure placements, once made, should be only for so long as is necessary. Care should be taken to ensure that children are not retained in secure accommodation simply to complete a pre-determined assessment or “treatment” programme. It is important that plans are made for continuity of care, education and, where appropriate, access to professional (eg psychiatric) support when the child leaves secure accommodation.

- 15.6 Trusts have a duty under the children Order to take reasonable steps designed to avoid the need for children within their area to be placed in secure accommodation (paragraph 8(c) of Schedule 2 to the Children Order refers). Careful consideration should be given to the existing range of alternative facilities and services available locally, identifying any gaps or inadequacies in such provision, and how these might best be met either by the Trust itself or in co-operation with other agencies. All decisions to seek a placement for a child in secure accommodation should be taken at a senior level. Within a Trust this should be at not less than Programme Manager level. Regulation 7(7) of the Children’s Homes Regulations requires that any part of a children’s home provided by a Trust and used for



secure accommodation must be separate from the remainder of the home.

- 15.7 The placement of a child it is looking after in secure accommodation should, wherever practicable, arise as part of the Trust's overall plan for the child's welfare. In planning such a placement, and in considering any decision with respect to a child looked after in such accommodation, a Trust must have regard to its general duties under Articles 25 and 26 including the duty to safeguard and promote the child's welfare (Article 26(1)(a)) and, so far as is reasonably practicable, ascertain the wishes and feelings of the child, his parents, any other person who has parental responsibility for him and any other person whose wishes and feelings it considers relevant (Article 26(2)). For children who are provided with accommodation on a voluntary basis under Article 21 a person with parental responsibility for a child may, at any time, remove him from accommodation which has been provided (Article 22(2)), unless the exceptions in Article 22(3) apply. This includes removal from placements in secure accommodation, whether or not the authority of the court to restrict the liberty of the child has been obtained. However, in line with the requirements of the regulation and guidance covering voluntary arrangements, a written agreement about the placement made between the Trust and the parents should include the expected duration of the placement and the arrangements for bringing the placement to an end.

Minimum age

- 15.8 Regulation 2 states that **no child under the age of 13 years may be placed in secure accommodation in a home provided by a Trust without the prior approval of the Department of Health and Social Services.** A Trust wishing to restrict the liberty of a child under the age of 13 should first discuss the case with the Social Services Inspectorate. Subject to its advice a formal written submission should then be submitted to the Department for its consideration, providing details of why restriction of liberty is considered the only appropriate way of dealing with the child.



Maximum period of restriction of liberty without court authority

- 15.9 Regulation 6(1) places a limit on the maximum period a child, to whom Article 44 applies, may have his liberty restricted without the authority of the court. The maximum period is one of 72 hours, either consecutively or in aggregate in any period of 28 consecutive days.
- 15.10 Some easement of this provision is provided to meet difficulties which may be faced by Trusts in arranging applications to be heard at short notice where the 72 hour period expires late on a Saturday, A Sunday or public holiday (section 39(4) of the Interpretation Act (Northern Ireland) 1954 refers). The easement provides that where a child is placed in secure accommodation at any time between 12 midday on the day before and 12 midday on the day after a public holiday or a Sunday, and:
- (a) during that period the maximum period of 72 hours expires, and
 - (b) in the 27 days before the day on which he was placed in secure accommodation, been placed and kept in secure accommodation for an aggregate of more than 48 hours, the maximum period (of 72 hours) shall be treated as if it did not expire until 12 midday on the first working day after the public holiday or Sunday.
- 15.11 This limited extension of the 72 hour rule is intended to cater for the emergency placement of a child in secure accommodation at a time when both the major proportion of that 72 hours has already been used up and it is unlikely to be possible to arrange for an application to be heard by a court before the 72 hour limit expires. In any other type of placement an application must be brought before the court within the 72 hour period if it is intended the placement should continue beyond that period, especially in those cases where the period would expire on a day when courts do not normally sit.
- 15.12 Regulation 6(2) provides that where a court has authorised a child to be kept in secure accommodation, any time which a child had been



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kept in such accommodation before that authority was given shall be disregarded for the purposes of calculating the maximum period in relation to any subsequent occasion on which the child is placed in such accommodation after the period authorised by the court has expired. The practical effect of this regulation is that the 28 day period mentioned in regulation 6(1) will restart on the expiry of any authority which the court has given. This is intended to meet the case of a child who may need to be re-admitted to secure accommodation as an emergency, and where –

- (a) during the previous 28 days the child has had his liberty restricted for up to 72 hours, and
- (b) a court has authorised such a placement for a period of less than 28 days.

Prohibition on use of secure accommodation in voluntary and private run children's homes

15.13 Articles 89(2)(f) and 105(2)(f) provide powers for the Department of Health and Social Services to make regulations prohibiting the use of accommodation in voluntary and privately run children's homes for the purpose of restricting the liberty of children. These powers have been exercised and the use of secure accommodation in voluntary and privately run children's homes is prohibited by virtue of regulation 13 of the Children (Secure Accommodation) Regulations.

Applications to court

15.14 Regulation 4 requires that applications to the court under Article 44 to keep a child in secure accommodation shall be made only by the Trust looking after the child. Regulation 4 does not prevent an application being made on behalf of the Trust looking after the child. For example, an application could be made on behalf of the Trust looking after a child by the Trust managing the secure accommodation in which he is accommodated, where different.



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- 15.15 It is recommended that applications to the court to keep a child in secure accommodation should be authorised at Programme Manager level. In all cases it is also important that the Trust's legal advisers be consulted at an early stage.
- 15.16 Where reference is made to applications being made to the "court" for authority to keep a child in secure accommodation, applications are to be made to the family proceedings court, unless the matter arises in the context of a case already before a county or High Court, in which case applications should be made to that court.
- 15.17 Where a child is kept in secure accommodation in a home provided by a Trust and it is intended to seek the authority of the court to continue the placement, regulation 9 places a duty on the Trust looking after the child, wherever practicable and as soon as possible, to notify the child's parents; any person not a parent but who has parental responsibility for him; the child's independent visitor, if one has been appointed and any other person the Trust considers should be informed, of this intention. This could include for example any Independent Representative attached to the secure unit. This regulation applies both to court applications after the first 72 hour period and to applications to keep a child in secure accommodation beyond a period authorised by a court.
- 15.18 Staff working in accommodation which restricts liberty and, for example, field social workers will be aware of the need to prepare children adequately for the court hearing and, in this respect, particular regard should be paid to the age and understanding of the child. The child's entitlement to legal aid (see paragraph 15.19 below) should be carefully explained. Staff themselves may require some guidance on the preparation of reports and on the need to ensure that the court is provided with precise evidence of the way in which it is considered that the child meets the statutory criteria for placing or keeping him in secure accommodation.



Legal representation

- 15.19 A court is unable to exercise its powers to authorise a period of restriction of liberty under Article 44 if the child is not legally represented in court. The only exception is where the child, having been informed of his right to apply for legal aid and having had an opportunity to do so, has refused or failed to apply (Article 44(7)). Children should be encouraged to appoint a legal representative in such proceedings and given every assistance to make such arrangements. The provision of legal aid in such proceedings is described in Article 172. This adds a new subsection (5B) to The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 which says that representation ... “must be granted where a child who is brought before a court under Article 44 of the Children Order (secure accommodation) is not, but wishes to be, legally represented before the court”. The child in such circumstances should have details of local solicitors on the Law Society’s Child Care Panel made available to him and should be assisted in making contact with the solicitor of his choice.

Guardians *ad litem*

- 15.20 Because restricting a child’s liberty is such a serious matter, proceedings under Article 44 have been specified under the rules of court as requiring the appointment of a guardian *ad litem* except where the court does not consider this is necessary to protect the welfare of the child.

Court’s powers in considering secure accommodation applications

- 15.21 In applying to a court the Trust looking after the child will be seeking to satisfy the court that the appropriate criteria are met in respect of the child. Where the court is satisfied it must, where appropriate, make an order. The order is permissive. It enables but does not oblige the Trust making the application to continue the placement for the duration of the order. Neither does it empower the Trust to



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continue the placement once the criteria under which the order was made cease to apply.

- 15.22 Regulation 7 provides that the maximum period a court may authorise a child to be kept in secure accommodation is three months. This regulation refers to orders made on a first application. Where the Trust believes that the child's placement in secure accommodation should continue beyond the period specified in the initial order, a further application must be made to the court. Regulation 8 provides that on these subsequent applications the court may authorise secure accommodation for up to six months at a time.
- 15.23 When an application is made to the court to keep a child in secure accommodation, it is the responsibility of that court to safeguard the rights of the child by satisfying itself that adequate evidence has been produced by the Trust to demonstrate that the statutory criteria are met. When the court is so satisfied it is required to make an order for such maximum duration (within the terms of the regulations) as it considers appropriate having had regard to the evidence provided. If at any stage the criteria for keeping the child in secure accommodation do not apply he should be released and put in alternative accommodation, as the court's authorisation is merely that – an authorisation. The giving of an authorisation does not prevent the court also giving any direction relating to the child which it has power to make (Article 44(9)).
- 15.24 Where the court adjourns consideration of an application, it may make an interim order authorising the child to be kept in secure accommodation during the period of the adjournment (Article 44(6)). An interim order will be made only where the court is not in a position to decide whether the criteria in Article 44(2) have been met. If the court adjourns consideration of an application and does not make an interim order, the child may not be placed in secure accommodation during the period of the adjournment unless his circumstances subsequently change, when the normal procedures will apply.



Appeals

- 15.25 Article 166 makes provision for appeals against court decisions to authorise, or refusal to authorise, applications for restriction of liberty. Where such an appeal is against an authorisation, a child's placement in secure accommodation may continue during consideration of the appeal. Where a court has refused to authorise restriction of liberty, and the Trust looking after the child, is appealing against that decision, the child must not be retained or placed in secure accommodation during consideration of the appeal.

Wardship and inherent jurisdiction of the High Court

- 15.26 The impact of the Children Order on the inherent jurisdiction of the High Court is described in Volume 1 in this series. The important point to note, as far as restriction of liberty is concerned, is that wardship will no longer be available as a route into secure accommodation for a child looked after by a Trust.
- 15.27 For children who, on commencement of the Children Order, are wards of court and have their liberty restricted as a result of directions given under the High Court's inherent jurisdiction, the directions will cease to have effect upon expiry of the maximum period specified in regulation 7 or 8, calculated from 4 November 1996. In practice, the means a maximum period of three months from the date if directions had been sought and granted on a single occasion in relation to that secure placement, and a maximum of six months from that date in all other cases. Trusts should consider whether it would be appropriate to seek a discharge or variation of any such direction.
- 15.28 The Children (Secure Accommodation) Regulations make no special provision for children who are subject to the inherent jurisdiction of the High Court. This means that in the exceptional circumstances of an application being made to the High Court to exercise its inherent jurisdiction to give directions as to the placement of a child in secure accommodation, such applications will be subject to the full



provisions of Article 44 and the associated Secure Accommodation Regulations from 4 November 1996. In practice, this means that the court will be unable to give directions to place a child under the age of 13 in secure accommodation in a home provided by a Trust without the Trust having obtained the prior approval of the Department (regulation 2); the child will be entitled to be legally represented at the hearing of the application (Article 44(7)) and the maximum duration of any direction to restrict the child's liberty will be three or six months, as appropriate (regulations 7 and 8).

Reviews

- 15.29 Regulations 10 and 11 deal with the review by a Trust looking after children of the placements of such children in secure accommodation in homes provided by a Trust. This review is additional to the review required by Article 45. Regulation 10 requires each Trust looking after a child in secure accommodation to ensure that this case is reviewed within one month of the start of the placement and thereafter at intervals not exceeding three months. Each Trust is required to appoint at least three persons to undertake such reviews one of whom must not be employed by the Trust looking after the child or by the Trust managing the secure accommodation in which he is accommodated. It should be noted that responsibility for undertaking such reviews rests solely on the Trust looking after the child, and not with the Trust managing the secure unit in which he is accommodated, where different.
- 15.30 Regulation 11(1) requires the persons appointed under regulation 10 to satisfy themselves, in respect of each case they review, that:
- (a) the criteria for keeping the child in secure accommodation in a home provided by a Trust continue to apply; and
 - (b) such a placement continues to be necessary and whether or not any other description of accommodation would be appropriate for him,



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and in doing so they must have regard to the welfare of the child.

15.31 Regulation 11(2) requires the persons appointed to undertake the review, as far as is reasonably practicable, to seek the views of:

- (a) the child;
- (b) any parent of his;
- (c) any person not being a parent of his but who has parental responsibility for him;
- (d) any other person who has had the care of the child, whose views the persons appointed consider should be taken into account;
- (e) the child's independent visitor if one has been appointed;
and
- (f) the Trust managing the secure accommodation in which the child is placed if that Trust is not the Trust looking after the child.

These parties must, so far as is reasonably practicable, all be informed of the outcome of the review, and the reasons for such outcome (Article 11(3) refers).

15.32 If a conclusion of the reviewing panel is that the criteria for restricting liberty no longer apply, the placement is no longer necessary or other accommodation is appropriate, the Trust looking after the child must immediately review the child's placement.

Records

15.33 Regulation 12 requires each Trust responsible for the management of secure accommodation to keep records giving:

- (a) the name, date of birth and sex of the child;



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- (b) details of the care order or other statutory provision under which the child is in the home and particulars of any other Trust involved with the placement of the child in that home;
- (c) the date, time and reason for the placement, the name of the officer authorising the placement and where the child was living before placement;
- (d) persons informed under the provisions of regulation 9 or 11(3);
- (e) court orders made under Article 44;
- (f) reviews undertaken under regulation 11;
- (g) the date and time of any occasion when the child is locked on his own in any room (including his bedroom) in the secure unit, other than his bedroom during usual bedtime hours; the name of the person authorising this action; the reason for it, and the date on which and time at which the child ceases to be locked in the room;
- (h) the date and time of his discharge from secure accommodation and the address of his subsequent placement.

These records must be made available for inspection by the Department which may require copies to be sent to it at any time.

Department's supervisory functions

- 15.34 The HSS Boards' registration and inspection units will be responsible for the inspection of children's homes including any secure accommodation provided by them. The Department of Health and Social Services, through SSI, will oversee the work of the registration and inspection units and will require them to prepare an annual report on residential child care and will pay particular attention to



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secure accommodation and how it is used, SSI will not routinely inspect secure accommodation.



CHAPTER 16: REFUGES FOR CHILDREN AT RISK

- 16.1 Article 70 of the Children Order provides that bona fide organisations, which provide refuges for runaway children, can be exempted from prosecution for assisting or inducing children to run away or stay away or for harbouring them or for child abduction.
- 16.2 Refuges can provide a breathing space for runaway children. Refuge workers can work with the children to help them to return to parents or Trust care, or to sort out some other solution if a return home is not appropriate (eg where a child has been, or may have been, sexually or physically or emotionally abused at home). It is important that those running such facilities have a clear legal framework within which to work. Trusts should aim to work together with refuges in their area to establish a satisfactory basis for operation.

Article 70(1)

- 16.3 The Department of Health and Social Services has power under Article 70(1) to issue certificates with respect to voluntary or privately run homes or foster parents approved by Trusts or voluntary organisations. The issue of such certificates has the effect that the following provisions do not apply to that home or foster parent:
- (a) Article 68 (abduction of children in care etc);
 - (b) sections 140(6) and 144(3) of the Children and Young Persons Act (Northern Ireland) 1968 (escapes from training schools etc);
 - (c) section 71 of the Social Work (Scotland) Act 1968 (harbouring children who have absconded from residential establishments etc) so far as it applies in relation to anything done in Northern Ireland;



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- (e) Article 4 of the Child Abduction (Northern Ireland) Order 1985 (abduction of children by persons other than parents etc).

Regulations

- 16.4 Provisions as to the issue and withdrawal of certificates and requirements while a certificate is in force are contained in the Refuges (Children's Homes and Foster Placements) Regulations and in this guidance.

Applications

- 16.5 Applications should be made on an application form obtainable from the Department of health and Social Services. A copy of the form is included at the Annex to Chapter 16. Any applicant will normally be expected first to have registered the home as a voluntary or privately run children's home or have made an application in respect of a foster parent approved by the Trust or voluntary organisation under the Foster Placement (Children) Regulations.
- 16.6 It is unlikely that any Trust or Trust foster parent should be at risk of prosecution under any of the provisions listed at paragraph 16.3 above. It would have to be proved that the Trust or Trust foster parent was acting with intent and without lawful authority or reasonable excuse.
- 16.7 The action taken by those running the refuge will be expected to include the rehabilitation of the young person with his parent(s) or whoever else is responsible for him, provided this is consistent with his welfare.

Additional guidance

- 16.8 While a certificate is in force the provisions of regulation 2 of the Refuges (Children's Homes and Foster Placements) Regulations will apply, eg the child must appear to be at risk of harm before he is



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accepted into the refuge and when he is in the refuge he must be at risk of harm if he were not staying at the refuge. Moreover the police have to be notified of every admission within twelve hours with a view to the parent or other specified person being notified that the child is in a refuge and provided with a telephone contact number, but not the address, of the refuge. The police should also be notified by the refuge when the child leaves.

- 16.9 Where a child remains in the refuge for more than fourteen consecutive days, or more than twenty-one days in any period of three months, the protection from prosecution which a certificate provides will apply. However the certificate can be withdrawn from the refuge if it is not being used in accordance with the basis upon which the certificate was granted.
- 16.10 It should be noted that the protection from prosecution given by such certificates extends to the organisation itself and to those persons providing the home in which the refuge is situated, or the foster parent providing the refuge as the case may be. However, care is needed in relation to those involved in outreach work, whether or not they are employed by the refuge, as they may not be protected from prosecution by the certificate.
- 16.11 Under regulation 3 of the Refuges (Children's Homes and Foster Placements) Regulations a certificate may be withdrawn at any time, where regulation 3 of those Regulations, or Part II of the Children's Homes Regulations, or paragraphs 3 to 9 of Schedule 2 or paragraphs 4 to 8 of Schedule 3 to the Foster Placement (Children) Regulations are not complied with.
- 16.12 Rules of court may require notice to be given in any proceedings brought under the Children Order where it is alleged that the child is in a refuge. The person providing the refuge can then seek leave to be joined as a party should he wish to challenge the application to make the order. It is expected that similar arrangements will exist in relation to wardship proceedings. Additionally such person(s) or organisations may apply for an emergency protection order (Article 63(1)) or ask the police to take the child into police protection (Article



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65) if they believe the child would suffer significant harm by being removed from the refuge. An emergency protection order or police protection in the last resort takes precedence over a care order. The police can arrange for a child who is in police protection to be placed in a refuge (Article 76(e)). The Emergency Protection Order (Transfer of Responsibilities) Regulations (Northern Ireland) 1996 (Article 71(3) and (4)) will not require a child to be removed from a refuge when an emergency protection order is in force.

- 16.13 Certificates will not be issued lightly. The Trust and the police will have had the opportunity to express a view on whether a certificate should be issued. The Department will give very careful consideration to such views and will take advice from the Social Services Inspectorate before issue of a certificate will be considered. Contravention of the provisions of regulation 2 of the Refuges (Children's Homes and foster Placements) Regulations, or Part II of the Children's Homes Regulations or paragraphs 3 to 9 of Schedule 2 or paragraphs 4 to 8 of Schedule 3 to the Foster Placement (Children) Regulations would be grounds for refusal or withdrawal of a certificate. If any person providing a refuge or any person assisting him has had proceedings instituted against him in relation to, or has been convicted of, any criminal offence this could also be grounds for refusal or withdrawal of a certificate. The Social Services Inspectorate will report to the Department of Health and social Services on homes and foster parent arrangements before issue of Article 70 certificates is considered and at regular intervals thereafter.
- 16.14 Although there is no formal right of appeal against refusal or withdrawal of a certificate any representations will of course be thoroughly considered. The Department of Health and Social Services will operate the procedure in relation to certificates in a reasonable way, having regard to the rules of natural justice.



CONFIDENTIAL

CHILDREN (NORTHERN IRELAND) ORDER 1995

ARTICLE 70 (REFUGEES FOR CHILDREN AT RISK)

APPLICATION FOR CERTIFICATE

1. Full name(s) of applicant person(s) or organisation.
2. Address of proposed refuge.
3. Numbers/sex/age range of persons for whom this service is proposed to be provided.
4. Objectives of proposed service.
5. Proposed contact address and telephone number.
6. Signature of applicant (with designation in the case of an organisation).

A SEPARATE COPY OF THE APPLICATION SHOULD NOW BE PASSED UNDER CONFIDENTIAL COVER – WITH DOCUMENTARY EVIDENCE OF REGISTRATION OR FOSTER PATENT STATUS – TO:

1. The relevant Trust which should provide comments to the application and send it and any comments to the Department at the address given below.*
2. The RUC who should be requested to provide comments if any to the application and then send it and any comments to the Department at the address given below.



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FOR COMMENT AND ONWARD TRANSMISSION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DUNDONALD HOUSE, UPPER NEWTOWNARDS ROAD, BELFAST BT4 3SF

* Comments should include whether there is a need for the refuge, whether the organisation or person or persons proposing to provide the refuge are suitable to run such a service, or whether there is any impediment to such persons providing such a service.

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 479

CHILDREN

**The Children's Homes Regulations
(Northern Ireland) 1996**

Made 8th October 1996

Coming into operation 4th November 1996

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 73, 74(2)(h), 73(3) 80(2), (3), (4), (5), 82(1), 89, 92(2)(h), 93(3), 96(2), (3), (4), (5), 98(1) and 105 of the Children (Northern Ireland) Order 1995 (a) and all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

INTRODUCTORY

Citation, commencement and interpretation

1.f(1) These Regulations may be cited as the Children's Homes Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations *f*

“the Order” means the Children (Northern Ireland) Order 1995;

“children’s home” means a home provided under Part VII of the Order, a voluntary home or a registered children’s home;

“Fire Authority” means the Fire Authority for Northern Ireland;

“guardian ad litem” means a guardian ad litem appointed pursuant to Article 60 of the Order or rules made under Article 66 of the Adoption (Northern Ireland) Order 1987(a);

“medicinal product” means anything in respect of which a product licence under the Medicines Act 1968(b) is required;

“person in charge” means in relation to a children’s home, the person appointed as the person in charge of it by the responsible authority;

“registered dental practitioner” means a person registered in the dentists register under the Dentists Act 1984(c);

“registration authority” means, in the case of a voluntary home or a registered children’s home, the Health and Social Services board in whose area the home is, or is to be, situated;

“responsible authority” means –

- (a) in the case of a home provided under part VII of the Order, the authority by whom it is provided;
- (b) in the case of a voluntary home, the voluntary organisation by whom it is provided; and
- (c) in the case of a registered children’s home, the person carrying it on.

Application of Regulations to different classes of children’s homes

2.-(1) Subject to paragraph (2), -

- (a) this Part, Part II and Part III apply to all children’s homes;
- (b) Part IV applies only to voluntary homes;

(a) S.I. 1987/2203 (N.I. 22); paragraph 166 of Schedule 9 to the Children (Northern Ireland) Order 1995 substituted a new Article 66 with effect from 19th February 1996
(b) 1968 c.67
(c) 1984 c.24

- (c) Part V applies only to registered children's homes; and
- (d) Part VI applies only to voluntary homes and registered children's homes.

(2) These Regulations shall not apply to premises used by an authority only to accommodate children for the purpose of a holiday for periods of less than 28 days at a time in the case of any one child.

Exemptions from registration and regulation as voluntary home or registered children's home

3. The following homes are exempted from the definitions of "voluntary home" in Article 74(1) of the Order and "registered children's home" in Article 90(1) of the Order –

- (a) any home used only to accommodate children for the purpose of a holiday for periods of less than 28 days at a time in the case of any one child;
- (b) a probation hostel and a bail hostel as defined in Article 2 of the Probation Board (Northern Ireland) Order 1982(a);
- (c) a hostel run by or on behalf of a professional football club to provide care and accommodation exclusively for professional footballers or trainee professional footballers who are under the age of 18;
- (d) an institution within the further education sector within the meaning of Article 100 of the Education reform (Northern Ireland) Order 1989(b).

PART II

CONDUCT OF CHILDREN'S HOMES

Statement of purpose and function of children's homes

4.-(1) The responsible authority shall, within 3 months of the coming into operation of these Regulations, compile and thereafter maintain and keep up to date a written statement of the particulars mentioned in Part I of Schedule 1 relating to each children's homes for which it is the responsible authority.

(2) The statement referred to in paragraph (1) shall be made available for inspection by the persons referred to in Part II of Schedule 1 (in addition to those who have a right under the Order to inspect this statement).

Staffing of children's homes

5.-(1) The responsible authority shall ensure that, so far as is reasonably practicable, the number of staff of each children's home and their experience and qualifications are adequate to ensure that the welfare of the children accommodated there is safeguarded and promoted at all times.

(2) The responsible authority shall ensure that the particulars specified in Part 1 of Schedule 1 are brought to the notice of all staff in each children's home.

Accommodation for individual children

6.-(1) The responsible authority shall ensure that, so far as is reasonably practicable, each child accommodated in a children's home shall be provided with an area within the home which is suitable for his needs, and is equipped in accordance with paragraphs (2) and (3).

(2) The area referred to in paragraph (1) shall be equipped with furniture, bedding and furnishings appropriate to the needs of the child.

(3) Where the child concerned is disabled, the area referred to in paragraph (1) shall be equipped with what is reasonably necessary in order to meet the child's needs arising from his disability so as to enable him to live as normal a life as possible.

Accommodation f general provisions

7.-(1) The responsible authority shall ensure that there is provided within a children's home for the use of children accommodated there *f*

(a) a sufficient number of wash basins, baths and showers supplied with hot and cold running water; and

(b) a sufficient number of lavatories,

for the number of children accommodated.

(2) The responsible authority shall ensure that all parts of the home used by children accommodated there are *f*

(a) adequately lit, heated and ventilated; and

(b) kept in good structural repair, clean and reasonably decorated and maintained for the purpose of accommodating children.

(3) Subject to paragraph (4), the responsible authority shall ensure that there are provided within the children's home suitable facilities for any child accommodated there to meet privately *f*

- (a) his parents;
- (b) any person who is not a parent of his but who has parental responsibility for him;
- (c) his relatives or friends;
- (d) his solicitor;
- (e) his guardian ad litem;
- (f) any independent person appointed in respect of any requirement of the procedure specified in the Representations Procedure (Children) Regulations (Northern Ireland) 1996(a);
- (g) any visitor appointed for the child in accordance with Article 31 of the Order;
- (h) any person authorised in accordance with Article 149(2) of the Order by the Department to conduct an inspection of the children's home and the children there; and
- (i) in the case of a voluntary home or registered children's home any person authorised by the registration authority.

(4) In the case of a voluntary home or a registered children's home in respect of which a certificate under Article 70 of the Order is in force, the facilities for meeting privately the persons listed in paragraph (3) may be at a different address.

(5) The responsible authority shall ensure that there are provided in a children's home adequate facilities for laundering linen and clothing used by children accommodated there, and, for children wishing to do so, to wash, dry and iron their own clothes.

(6) The responsible authority shall ensure that any part of a home provided under Part VII of the Order used for the purposes of secure accommodation (within the meaning of Article 44 of the Order), is separate from the rest of the home.

Control and discipline

8.-(1) Except as otherwise directed by the Department in accordance with Article 26(5) of the Order, only such disciplinary measures as are for the time being approved by the responsible authority shall be used on children accommodated in a children's home.

(2) Subject to paragraph (3), the following measures shall not be used on children accommodated in a children's home –

- (a) any form of corporal punishment;
- (b) any deprivation of food or drink;
- (c) any restriction on visits to or by any child, or any restriction on or delay in communications by telephone or post with –
 - (i) his parents,
 - (ii) any person who is not a parent of his but who has parental responsibility for him,
 - (iii) his relatives or friends,
 - (iv) any visitor appointed for the child in accordance with Article 31 of the Order,
 - (v) any social worker for the time being assigned to the child by the authority which is looking after him or voluntary organisation which is caring for him,
 - (vi) any guardian ad litem of the child, or
 - (vii) any solicitor for the time being acting for the child or whom the child wishes to instruct;
- (d) any requirement that a child wear distinctive or inappropriate clothes;
- (e) the use or withholding of medication or medical or dental treatment;
- (f) the intentional deprivation of sleep;
- (g) the imposition of fines (except by way of reparation); or
- (h) any intimate physical examination of the child.

(3) Nothing in this regulation shall prohibit –

- (a) the taking of any action by, or in accordance with the instructions of, a medical or registered dental practitioner which is necessary to protect the health of a child;
- (b) the taking of any action immediately necessary to prevent injury to any person or serious damage to property;
- (c) the imposition of a requirement that a child wear distinctive clothing, for purposes connected with his education or with any organisation whose members customarily wear uniform in connection with its activities; or
- (d) the imposition by the responsible authority or the person in charge of the children's home, having obtained a court order where necessary, of any prohibition, restriction or condition upon contact between the child and any person if the responsible authority or the person in charge of the home is satisfied that the prohibition, restriction or condition is necessary in order to protect or promote the welfare of the child.

(4) Full particulars of the use made of any disciplinary measures, including

- (a) the date on which they were used;
- (b) the reason why they were used; and
- (c) the person by whom they were used,

shall be recorded by a duly authorised person on behalf of the responsible authority in permanent form in the children's home within 24 hours of their use and shall be signed by him.

Storage of medicinal products

9.-(1) Subject to paragraph (3), the responsible authority shall ensure that any medicinal product which is kept in a children's home shall be stored in a secure place so as to prevent any child accommodated there having access to it otherwise than under the supervision of a member of the staff of the home.

(2) Subject to paragraph (3), the person in charge of a children's home shall ensure that no medicinal product shall be administered to a child otherwise than by a member of the staff of the children's home, a registered nurse, a medical practitioner or registered dental practitioner.

(3) Paragraphs (1) and (2) do not apply to a medicinal product which *f*

(a) is stored by the child for whom it is provided in such a way that others are prevented from using it; and

(b) may safely be self-administered by that child.

Employment and education of older children

10. Where any child in a children's home has attained the age where he is no longer required to receive compulsory full-time education, the responsible authority shall assist with the making of, and give effect to, the arrangements made for him in respect of his education, training and employment.

Religious observance

11. The responsible authority shall ensure that each child accommodated in each children's home is enabled, so far as is practicable, to attend the services of, to receive instruction in, and to observe any requirement (whether as to dress, diet or otherwise) of, the religious persuasion to which he belongs.

Food provided for children and cooking facilities

12.-(1) The responsible authority shall ensure that children accommodated in each children's home are provided with food, in adequate quantities for their needs, which is properly prepared, wholesome and nutritious.

(2) So far as is practicable, the responsible authority shall ensure that at each main meal there is a choice for each course.

(3) The responsible authority shall ensure that any special dietary need of a child accommodated in a children's home, which is due to his health, religious persuasion, racial origin or cultural background, is met.

(4) The responsible authority shall provide within a children's home

(a) suitable and sufficient catering equipment, crockery and cutlery to provide for the needs of children accommodated in the home;

(b) proper facilities for the refrigeration and storage of food; and

(c) so far as is practicable, adequate facilities for children to prepare their own food if they so wish.

Purchase of clothes

13.-(1) So far as is practicable, the responsible authority shall enable each child accommodated in a children's home to purchase clothes according to his needs.

(2) Where a child accommodated in a children's home does not wish to, or is not able to, purchase his own clothes, the responsible authority shall purchase clothes for him to meet this needs.

Fire precautions

14.-(1) The responsible authority shall ensure, before any child is accommodated in a children's home and at all times when children are accommodated, that the Fire Authority is notified in writing of the following particulars *f*

- (a) the location of the children's home;
- (b) the number of children accommodated or to be accommodated there;
- (c) the minimum and maximum age of children accommodated or to be accommodated there; and
- (d) where children suffering from any impairment of movement or intellect are accommodated or are to be accommodated there and, if so, the nature of the impairment.

(2) The responsible authority shall ensure that in respect of a children's home *f*

- (a) precautions are taken against the risk of fire;
- (b) means of escape in the event of fire are provided;
- (c) arrangements are made for detecting, containing and extinguishing fire;
- (d) arrangements are made for warning of an outbreak of fire and for evacuation in the event of fire; and
- (e) means for fighting fire are provided,

which are such as may reasonably be required in respect of that home.

(3) The responsible authority shall ensure that arrangements are made so that –

- (a) the staff; and
- (b) so far as is practicable, the children accommodated in a children's home,

are aware of the procedure to be followed in the event of fire at the home.

(4) The arrangements referred to in paragraph (3) shall include practice of the evacuation procedure for the children's home and the techniques of resuscitation and the saving of life.

(5) The responsible authority shall make arrangements to ensure that any outbreak of fire requiring an evacuation of children accommodated in a children's home from it, or any part of it, is notified to them immediately.

PART III

ADMINISTRATION OF CHILDREN'S HOMES

Confidential records with respect to children in children's homes

15.-(1) The responsible authority shall arrange that there shall be kept in each children's home a record in permanent form with respect to each child who is accommodated there, which shall so far as is practicable include the information specified in Schedule 2.

(2) The record mentioned in paragraph (1) shall be kept securely and treated as confidential subject only to *f*

(a) any statutory provision under which access may be obtained or given to records and information concerning a child; and

(b) any court order, in respect of access to records and information concerning a child.

(3) The records mentioned in paragraph (1) shall be retained for at least 75 years from the date of birth of the child to whom they relate or, if the child dies before attaining the age of 18, for a period of 15 years from the date of his death.

Access by guardian ad litem to records and register

16.-(1) Each voluntary organisation, where it is not acting as an authorised person^(a), and every person carrying on a registered children's homes, shall provide a guardian ad litem of a child with *f*

(a) such access as may be required to –

(i) records in so far as they relate to the child maintained in accordance with these Regulations, and

(a) For access by guardians ad litem to authority and authorised person's records *see* Article 61 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)). "Authorised person" is defined in Article 49(2) of that Order

(ii) the information from such records held in whatever form (such as by means of a computer);

(b) such copies of the records as the guardian ad litem may require.

17.-(1) The responsible authority shall keep in each children's home the records specified in Schedule 3 and shall ensure that the details are kept up to date.

(2) The records referred to in paragraph (1) shall be retained for at least 15 years, except for records of menus which need to be kept only for one year.

Regulations and guidance

18. A copy of these Regulations and of any relevant guidance issued by the Department (a) shall be kept in each children's home and made available when required to –

- (a) all staff;
- (b) every child accommodated in the home;
- (c) the parents or guardians of any child accommodated in the home; and
- (d) any person who is not a parent of a child accommodated in the home but has parental responsibility for him.

Notification of significant events

19.-(1) In respect of the events at any children's home mentioned in paragraph (2), the responsible authority shall forthwith notify –

- (a) insofar as it is reasonably practicable –
 - (i) the parents of any child concerned,
 - (ii) any person who is not a parent of any child concerned but who has parental responsibility for such a child, and
 - (iii) any other person who has undertaken to meet any fees or expenses incurred in accommodating any child concerned at the home;

(a) This guidance is published by Her Majesty's Stationery Office and is available from HMSO Bookshop, 16 Arthur Street, Belfast, BT1 4GD or direct from it by post

- (b) except in the case of the event mentioned in paragraph (2)(b), the Director of Public Health **(a)** of the Health and social Services Board within whose area the children's home is situated;
- (c) where the responsible authority is not an authority –
 - (i) the authority within whose area the home is situated, and
 - (ii) the registration authority;
- (d) in respect of the event mentioned in paragraph (2)(a), (b) and (c), the Department, except in relation to paragraph (2)(a) where the child is being looked after by an authority**(b)**; and
- (e) in respect of the event mentioned in paragraph (2)(c), a constable.

(2) The events referred to in paragraph (1) are –

- (a) the death of a child accommodated at the children's home;
- (b) any conduct on the part of a member of staff of the home which is, or may be such, in the opinion of the responsible authority, that he is not, or as the case may be, would not be a suitable person to be employed in work involving children;
- (c) the suffering of serious harm by a child accommodated at the home;
- (d) any serious accident involving a child accommodated at the home;
- (e) any serious illness involving a child accommodated at the home; and

(a) Article 32 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I.1) provides that the Chief Administrative Medical Officer of a Health and Social Services Board shall be known as the Director of Public Health of that Board

(b) Equivalent provision is made in these circumstances by Article 34(1) of the Children (Northern Ireland) Order 1995

(f) the outbreak in the home of any notifiable infectious disease to which the Public Health Act (Northern Ireland) 1967(a) applies.

(3) Any notification given with respect to the death of a child shall give such detail as to the circumstances as is known to the responsible authority.

Absence of a child without permission

20.-(1) The responsible authority shall draw up and cause to be recorded in writing the procedure to be followed when any child accommodated in a children's home is absent without permission.

(2) The responsible authority shall ensure that the procedure mentioned in paragraph (1) is drawn to the attention of the children accommodated in the children's home and the staff of, and others working, the home.

Absence of person in charge of voluntary home or registered children's home

21.f (1) Subject to paragraphs (2) and (4), where the person in charge of a voluntary home or registered children's home proposes to be absent from the home for a continuous period of 4 weeks or more, he shall give written notice to that effect to the registration authority at least 4 weeks before the absence is due to begin.

(2) Subject to paragraph (4), where it is necessary for the person in charge to be sent from the home for a continuous period of 4 weeks or more in circumstances where it would be impracticable to give the period of notice mentioned in paragraph (1), the registration authority may accept such shorter notice as appears reasonable.

(3) Subject to paragraph (4), where paragraph (1) applies, the person for the time being in charge of a voluntary home or registered children's home shall inform the registration authority at least 7 days before the beginning of the absence of-

- (a) its occurrence and anticipated duration;
- (b) the reason for it;
- (c) the number of children accommodated, when the information is given;
- (d) the arrangements which have been made for the running of the home; and

(a) 1967 c.36 (N.I.); Schedule 1, which specifies notifiable diseases, was substituted by the Schedule to the Public Health Notifiable Diseases Order (Northern Ireland) 1990 (S.R. 1990 No. 66)

(e) the name, address and qualifications of the person who will for the time being be in charge.

(4) Nothing in this regulation shall require notification to be given to the registration authority if, in a case falling within paragraph (1) or (2), no child is to be accommodated during the period of the absence.

(5) If, in any case referred to in paragraph (4), a child is provided with accommodation in the home during the period of absence, the person for the time being in charge shall, within 7 days of the child first being provided with accommodation, inform the registration authority of the matters mentioned in paragraph (3).

(6) Within 7 days of the return of the person in charge, or the appointment of some other person in his place, the responsible authority shall notify the registration authority of that fact.

(7) If, in the case of a registered children's home the person in charge is also the responsible authority, anything required to be done by or to the responsible authority shall be done by or to (as the case may require) the person for the time being in charge of the home.

Accountability and visiting on behalf of responsible authority

22-(1) If the person carrying on a voluntary home or registered children's home is an individual, but is not also the person in charge of the home, he shall visit the home once a month, or cause some other person to do so on his behalf and to report to him in writing on the conduct of the home.

(2) Where the person carrying on a voluntary home or registered children's home is a body of persons (whether incorporated or not), the directors, or other persons responsible for the conduct of the body, shall cause one of their number, or an employee of that body who is not directly concerned with the conduct of the home, to visit the home once a month and report to them in writing on the conduct of the home.

(3) An authority providing a home under Part VII of the Order shall cause the home to be visited once a month and to report to it in writing upon the conduct of the home.

PART IV

VOLUNTARY HOMES

Application for registration of voluntary home

23. An application for the registration under Article 80 of the Order (registration of voluntary homes) shall be *f*

- (a) made in writing; and
- (b) accompanied by the particulars specified in, or referred to in, Schedule 4.

Limits on number of children accommodated

24. The registration authority may limit the number of children to be accommodated in a voluntary home to such number as it may specify by means of a condition imposed under Article 81 of the Order.

Annual review of registration

25. In connection with an annual review of registration under Article 86 of the Order, the voluntary organisation shall notify the registration authority of any changes which there may have been since the previous review, or the original application where there has been no review, in the particulars specified in Schedule 4.

Inspection of voluntary homes

26.-(1) Where an application has been made for the registration of a voluntary home, the registration authority shall cause it to be inspected before deciding whether or not to grant the application.

(2) Within the period of one month ending upon the anniversary of the registration of a voluntary home, the registration authority shall cause the home to be inspected.

(3) On at least one other occasion in any year, the registration authority shall cause the home to be inspected.

(4) The registration authority may notify the person in charge of the voluntary home of its intention to conduct the inspection required by paragraph (2), but shall not do so with regard to any inspection pursuant to paragraph (3).

(5) The registration authority shall consider the report of any inspection of the voluntary home conducted in accordance with this regulation when determining whether or not the registration of the home shall be reviewed or cancelled.

Cancellation of registration

27. An application under Article 82(1) of the Order (cancellation of registration) shall be made in writing and shall include-

- (a) particulars of the date on which the voluntary organisation wishes the cancellation of the registration of the voluntary home to take effect, being a date no earlier than one month after the date on which the application is made; and
- (b) particulars of the action which the voluntary organisation intends should be taken with regard to alternative accommodation for any child then accommodated in the home.

Change of person in charge

28. The responsible authority shall give at least one month's prior notice, in writing, to the registration authority of any proposal to change the person in charge of a voluntary home, giving the particulars specified in Schedule 6.

PART V

REGISTERED CHILDREN'S HOMES

Application for registration of children's home

29.-(1) An application for registration under Article 96 of the Order (registration of a children's home) shall be made in writing.

(2) Where the applicant is an individual his application shall be accompanied by the particulars specified in Part I of Schedule 5.

(3) Where the applicant is a body corporate or unincorporated the application shall be accompanied by the particulars specified in Part II of Schedule 5.

(4) Whether the applicant is an individual or a body corporate or unincorporated his application shall also be accompanied by the particulars specified in, or referred to in, Part III of Schedule 5.

Limits on number of children accommodated

30. The registration authority may limit the number of children to be accommodated in a registered children's home to such number as it may specify by means of a condition imposed under Article 97 of the Order.

Annual review of registration

31. In connection with an annual review of registration under Article 102 of the Order, the person carrying on the registered children's home shall notify the registration authority of any changes which there may have been since the previous review, or the original application where there has been no review, in any of the particulars furnished under regulation 29(2), (3) or (4).

Inspection of registered children's homes

32.-(1) Where an application has been made for the registration of a children's home, the registration authority shall cause it to be inspected before deciding whether or not to grant the application.

(2) Within the period of one month ending upon the anniversary of the registration of a registered children's home, the registration authority shall cause the home to be inspected.

(3) On at least one other occasion in any year, the registration authority shall cause the home to be inspected.

(4) The registration authority may notify the person in charge of the registered children's home of its intention to conduct the inspection required by paragraph (2), but shall not do so with regard to any inspection pursuant to paragraph (3).

(5) The registration authority shall consider the report of any inspection of the registered children's home conducted in accordance with this regulation when determining whether or not the registration of the home shall be reviewed or cancelled.

Cancellation of registration

33. An application under Article 98(1) of the Order (cancellation of registration) shall be made in writing and shall include *f*

- (a) particulars of the date on which the person carrying on the registered children's home wishes the cancellation of the registration of the home to take effect, being a date no earlier than one month after the date on which the application is made; and

- (b) particulars of the action which he intends should be taken with regard to alternative accommodation for any child then accommodated in the home.

Change of person in charge

34. The responsible authority shall give at least one month's prior notice, in writing, to the registration authority of any proposal to change the person in charge of a registered children's home, giving the particulars specified in Schedule 6.

PART VI

AUTHORITY VISITS TO CHILDREN IN VOLUNTARY HOMES OR REGISTERED
CHILDREN'S HOME

Circumstances necessitating visits by authorities

35. Every authority shall arrange for one of its officers to visit every child who is accommodated within its area in a voluntary home or in a registered children's home in any of the following circumstances and within the periods specified *f*

- (a) where the authority is informed that a child not in the care of, or being looked after by, any authority has been placed in such accommodation, within 7 days of being so informed;
- (b) where the voluntary organisation or the person carrying on a registered children's home providing such accommodation makes representations to the authority that there are circumstances relating to the child which require a visit, within 14 days of receipt of those representations; or
- (c) when the authority is informed that the welfare of a child may not be being safeguarded or promoted, within 24 hours of being so informed.

Further visits

36.-(1) After a visit ("the first visit") has been made under regulation 35, the authority shall arrange for such further visits to the child by one its officers as appears to the authority to be necessary, (whether in the light of a change of circumstances or not), and shall in any event arrange for the further visits provided for by paragraphs (2) and (3).

(2) Where the authority is satisfied following the first visit that the child's welfare is being safeguarded and promoted, the authority shall arrange for a further visit by one of its officers where the first visit was made in the circumstances specified in regulation 35(a), within 6 months of the first visit.

(3) Where the authority is not satisfied following the first visit that the child's welfare is being safeguarded and promoted, but has decided that the child should continue to reside in the same accommodation, the authority shall arrange for a further visit by one of its officers within 7 days of the first visit.

Requirements for visits

37.f(1) Every authority shall ensure that in the course of visits to which regulations 35 and 36 refer, an officer of the authority *f*

- (a) see the child alone (unless exceptionally he considers it unnecessary);
- (b) reads all relevant case papers and records concerning the child kept by the voluntary organisation or the person carrying on the registered children's home, and signs and dates them to indicate that he has seen them; and
- (c) makes a written report of his visit which shall be copied to the voluntary organisation or person carrying on the registered children's home.

(2) The voluntary organisation or the person carrying on the registered children's home shall provide suitable accommodation for a visit made under regulation 35 or 36.

PART VII

REVOCATION

Revocation

38. The Children and Young Persons (Voluntary Homes) Regulations (Northern Ireland) 1975(a), insofar as they continue to have effect, are hereby revoked.

(L.S.)

P.A. Conliffe
Assistant Secretary

Statement to be kept relating to children's homes

PART 1

PARTICULARS TO BE INCLUDED IN STATEMENT

1. The purpose for which the children's home is established, and the objectives to be attained with regard to children accommodated in the home.
2. The name and address of the responsible body, and of the person in charge of the children's home if different.
3. The following details about the children for whom it is intended that accommodation should be provided :
 - (a) their age-range;
 - (b) their sex;
 - (c) the number of children; and
 - (d) whether children are selected by reference to criteria other than age or sex, and if so, those criteria.
4. The organisational structure of the children's home.
5. The experience of the person in charge of the children's home, the staff and others working there, and details of qualifications held by any of those persons relevant to their work in the home, or to the care of children.
6. The facilities and services to be provided within the children's home for the children accommodated there.
7. The arrangements made to protect and promote the health of the children accommodated there.
8. The fire precautions and associated emergency procedures.
9. The arrangements made for religious observance by any child accommodated there.

10. The arrangements made for contact between a child accommodated there and his parents, any person who is not a parent of his but who has parental responsibility for him, relatives and friends.

11. The methods of control and discipline and the disciplinary measures used there, the circumstances in which any such measures will be used and who will be permitted to authorise them.

12. The procedure for dealing with any unauthorised absence of a child from the children's home.

13. The arrangements for dealing with any representation (including any complaint).

14. The arrangements for the education of any child accommodated there.

15. The arrangements for dealing with reviews under Article 45 of the Order of the cases of every child accommodated there.

16. The arrangements for consultation with a child regarding his future care.

17. The arrangements for involving a child in group care decisions, commensurate with the age and maturity of the child.

PART II

PERSONS TO WHOM STATEMENT IS TO BE MADE AVAILABLE FOR INSPECTION

18. The person in charge of the children's home.

19. The staff of the children's home and any other person working there.

20. The children accommodated in the children's home.

21. The parent of any child accommodated in the children's home.

22. Any person who is not a parent of a child accommodated in the children's home, but who has parental responsibility for such a child.

23. Any authority looking after a child accommodated in the children's home where the authority is not responsible for the management of that home.

24. Any voluntary organisation providing accommodation for a child accommodated in the children's home where they are not responsible for the management of that home.

25. The independent visitor (if one has been appointed), of any child accommodated in the children's home.

26. The guardian ad litem (if one has been appointed), of any child accommodated in the children's home.

27. Any registration authority.

SCHEDULE 2

Regulation 15(1)

**Information to be included in confidential records
concerning children in children's homes**

1. The child's name and any name by which the child has previously been known, other than a name used by the child prior to adoption.
2. The child's sex and date of birth.
3. The child's religious persuasion, if any.
4. A description of the child's racial origin, cultural and linguistic background.
5. Where the child came from before he was accommodated in the children's home.
6. The person by whose authority the child is provided with care and accommodation in the children's home, and the statutory provision under which he is so provided.
7. The name, address and telephone number and the religious persuasion, if any, of –
 - (a) the child's parents; and
 - (b) any person who is not a parent of the child but who has parental responsibility for him.
8. The name, address and telephone number of any social worker for the time being assigned to the child by the authority looking after him, or by the voluntary organisation or the person carrying on the registered children's home who are providing him with accommodation.
9. The date and circumstances of any absence of the child from the children's home, including whether the absence was authorised and where the child went during the period of absence.
10. The date and circumstances of any visit to the child whilst in the children's home by any of the persons referred to in regulation 8(2)(c).

11. A copy of any statement of special educational needs under Article 31 of The Education and Libraries (Northern Ireland) Order 1986 (a) maintained in relation to the child, with details of any such needs.
12. The name and address of any school or college attended by the child, and of any employer of the child.
13. Every school report received by the child while accommodated in the children's home.
14. The date and circumstances of any disciplinary measures imposed on the child.
15. Any special dietary or health needs of the child.
16. Arrangements for, including any restrictions on, contact between the child and –
 - (a) his parents;
 - (b) any person who is not a parent of his but who has parental responsibility for him; and
 - (c) any other person.
17. The date and result of any review of the child's case.
18. The name and address of the medical practitioner with whom the child is registered.
19. Details of any accident involving the child.
20. Details of any immunisation, illness, allergy, or medical examination of the child and of any medical or dental need of the child.
21. Details of any health examination or developmental test conducted with respect to the child at, or in connection with, his school.
22. Details of all medicinal products taken by the child while in the children's home and by whom they were administered, including those which the child was permitted to administer to himself.
23. The date on which any money or valuables are deposited by or on behalf of a child for safe-keeping, and the date on which such money is withdrawn, and the date on which any valuables are returned.
24. Where the child goes to when he ceases to be accommodated in the children's home.

SCHEDULE 3

Regulation 17(1)

Other records with respect to children in children's homes

1. A record showing –

- (a) the date on which each child was first accommodated in the children's home;
- (b) the date on which any child ceased to be accommodated in the children's home;
- (c) where each child came from before he was accommodated in the children's home;
- (d) where each child who had ceased to be accommodated went when he left the children's home;
- (e) the identity of the person, authority or organisation responsible for the child being placed in the children's home; and
- (f) which, if any, child accommodated in the children's home was being looked after, or in the care of, any organisation and under what legal authority.

2. A record showing –

- (a) the full names;
- (b) the sex;
- (c) the date of birth; and
- (d) the qualifications relevant to, and experience of work involving children, of every person who –
 - (i) is employed at the children's home,
 - (ii) works at the home, or
 - (iii) is intended by the responsible authority to work at the home,

showing whether they work at the home full-time or part-time, (whether paid or not) and if part-time the average number of hours worked per week, and whether or not they reside at the home or are intended to do so.

3. A record of all those persons resident at the children's home, other than the persons mentioned in paragraph 2 and children accommodated in the home.

4. A record of accidents occurring in the children's home.

5. A record of any medicinal product administered to any child in the children's home, including the date and circumstances of its administration and by whom it was administered, including medicinal products which the child is permitted to administer to himself.

6. A record of every fire drill or fire alarm test conducted, with details of any deficiency in either the procedure or the equipment concerned, together with details of the steps taken to remedy that deficiency.

7. A record of all money deposited by a child for safekeeping, together with the date on which that money was withdrawn, or the date of its return.

8. A record of all valuables deposited by a child and the date of their return.

9. Records of all accounts kept in the children's home.

10. A record of menus.

11. A record of every disciplinary measure imposed, giving the information required by regulation 8.

12. Records of duty rosters.

13. A daily log of events occurring in the children's home, including the names of visitors to any child accommodated in the home.

**Particulars to accompany an application for registration
of a voluntary home**

1. The name of the voluntary organisation making the application.
2. The address and telephone number of the registered office or principal office of the voluntary organisation.
3. The names and addresses of the chairman and secretary of, or any other person responsible for the management of, the organisation, their dates of birth and, if the registration authority has requested, their qualifications and experience (if any) of running a home.
4. The name, address and telephone number of the premises in respect of which registration is sought.
5. The name and address of any other home within the scope of Part VIII or IX of the Order, or Part II or III of the Registered Homes (Northern Ireland) Order 1992(a), in respect of which the voluntary organisation has or at any time had a financial interest, and details of that interest.
6. A description of the premises and the area in which the premises are situated and details of any comments made by the environmental health officer for the area or the Fire Authority.
7. Particulars of the accommodation provided for residents in the voluntary home and for the employees and volunteers at the home.
8. The date on which the voluntary home was established or is to be established.
9. Particulars of any other business which is, or will be, carried on in, or from, the same premises as the voluntary home.
10. The name, sex and date of birth of the person in charge, or intended to be in charge, of the voluntary home and whether or not he resides, or is to reside, in the home, together with:
 - (a) the name and address of each person by whom he is, or has been, employed in the past 10 years;

(a) S.I. 1992/3204 (N.I.20)

- (b) the names and addresses of two persons, in addition to those referred to in sub-paragraph (a), who are willing and able to give a reference as to his suitability to be in charge of a voluntary home;
- (c) his qualifications, insofar as they are relevant to his employment; and
- (d) particulars of his health and an undertaking to provide a report by a medical practitioner where the registration authority considers it necessary.

11. The name, sex and date of birth of every person working, or who it is proposed should work, in the voluntary home (as an employee or otherwise), with particulars of –

- (a) whether they are or will be resident in the home;
- (b) whether they are full-time or part-time and, if part-time, the number of hours for which they are or will be employed;
- (c) the position they hold or will hold; and
- (d) any relevant qualifications.

12. Particulars of the equipment, facilities and services provided or to be provided in the voluntary home, and any special arrangements or services for any particular category of children.

13. The arrangements for the storage and administration of medicinal products.

14. The arrangements for medical and dental examinations and treatment.

15. The scale of charges payable in respect of residents in the voluntary home.

16. The arrangements for the education of the children and what contact there is with the education and library board for the area in which the voluntary home is, or is to be, situated.

17. Particulars of any children in residence, including their name, sex and date of birth, and details of who was responsible for their placement in the voluntary home.

18. Particulars of any prospectus or advertisement relating to the voluntary home.

19. The particulars set out in Part I of Schedule 1.

SCHEDULE 5

Regulation 29(2), (3) and (4)

**Particulars to accompany an application for registration
As a registered children's home**

PART I

PARTICULARS WHERE APPLICANT IS AN INDIVIDUAL

1. The name, date of birth, address and telephone number of the applicant.
2. The qualifications and experience (if any) held by the applicant which are relevant to his suitability to carry on a registered children's home.
3. The names and addresses of any person by whom the applicant is, or has at any time in the preceding 10 years been, employed.
4. The names and addresses of two persons, in addition to those referred to in paragraph 3, who are willing and able to give a reference as to the suitability of the applicant to carry on a registered children's home.
5. A report (where the registration authority considers it necessary) by a medical practitioner as to the physical and mental health of the applicant.

PART II

PARTICULARS WHERE APPLICANT IS A CORPORATE OR
UNINCORPORATED BODY

6. The address of the registered office or principal place of business of the applicant.
7. The names, dates of birth and addresses of the chairman and secretary of the applicant.
8. The qualifications and experience (if any) held by the person whom the applicant intends to be in charge of the registered children's home which are relevant to his suitability to be in charge of the home.

9. The names and addresses of two persons who are willing and able to give a reference as to the suitability of the person mentioned in paragraph 8.

PART III

PARTICULARS REQUIRED IN ALL CASES

10. The name, address and telephone number of the premises in respect of which registration is sought.
11. A description of the premises and the area in which they are situated, and particulars of any comments made by the environmental health officer for the area or the Fire Authority.
12. The name and address of any other home within the scope of Part VIII or IX of the Order or Part II or III of the Registered Homes (Northern Ireland) Order 1992 in respect of which the applicant has or at any time had a financial interest, or in the case of an individual, at which he was employed, and details of the interest or employment.
13. The date on which the home was established or is to be established.
14. Particulars of any children in residence, including their name, sex and date of birth, and details of who was responsible for their placement in the home.
15. The name, sex and date of birth of the person in charge, or intended to be in charge, of the registered children's home and whether or not he resides, or is to reside, in the home, together with details of *f*
- (a) the name and address of each person by whom he is, or has been, employed in the past 10 years;
 - (b) the names and addresses of two persons, in addition to those referred to in subparagraph (a), who are willing and able to give a reference as to his suitability to be in charge of a registered children's home;
 - (c) his qualifications, insofar as they are relevant to his employment; and
 - (d) particulars of his health and an undertaking to provide a report by a medical practitioner where the registration authority considers it necessary.
16. The name, sex and date of birth of every person working, or whom it is proposed should work, in the home (whether as an employee or otherwise), with particulars of-

- (a) whether they are or will be resident in the home;
- (b) whether they are full-time or part-time and, if part-time, the number of hours for which they are or will be employed;
- (c) the positions they hold or will hold; and
- (d) any relevant qualifications.

17. The scale of charges payable in respect of residents in the home.
18. Particulars of the equipment, facilities and services provided or to be provided in the home, and any special arrangements or services for any particular category of children.
19. The arrangements made or proposed for the education of the children and what contact there is with the education and library board for the area in which the home is, or is to be, situated.
20. Particulars of the accommodation provided for resident children and for others resident at the home.
21. The arrangements for the storage and administration of medical products.
22. The arrangements for medical and dental examinations and treatment.
23. The particulars set out in Part I of Schedule 1.
24. Particulars of any prospectus or advertisements relating to the home.
25. Particulars of any other business which is, or will be, carried out in, or from, the same premises as the home.
26. Where the person carrying on, or intending to carry on, the home is not also the person in charge, the particulars required by paragraphs 1 to 5 of Part I for the person in charge.

SCHEDULE 6

Regulations 28 and 34

**Particulars of change of identity of proposed person in charge of
Voluntary home or registered children's home**

1. The name, date of birth, address and telephone number of the proposed person in charge.
2. The qualifications and experience (if any) held by the proposed person which are relevant to his suitability to carry on the voluntary home or the registered children's home.
3. The names and addresses of any person by whom the proposed person in charge is, or has at any time in the preceding 10 years been, employed.
4. The names and addresses of two persons, in addition to those referred to in paragraph 3, who are willing and able to give a reference as to the suitability of the proposed person in charge to be in charge of a children's home.
5. A report (where the registration authority considers it necessary) by a medical practitioner as to the physical and mental health of the proposed person in charge.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the conduct of children's home. They supersede the existing Regulations relating to voluntary children's homes, and provide that all types of children's homes, whether homes provided under Part VII of the Children (Northern Ireland) Order 1995, voluntary homes or registered children's homes are subject to the same or similar provisions.

Part I of the Regulations relates to their citation, commencement, interpretation and application (regulations 1 and 2). It provides for exemptions for certain homes from registration and regulation as a voluntary home or registered children's home (regulation 3).

Part II relates to the conduct of children's homes. It provides for each children's home to keep a statement of the particulars specified in Schedule 1, which shall be made available for inspection by those specified in Part II of that Schedule (regulation 4); specifies in detail how children's homes should be conducted (regulations 5 to 14); provide for records to be kept about each child and about the running of the children's home and for guardians ad litem to have access to the records (regulations 15 to 17 and Schedules 2 and 3).

Part III relates to the administration of children's homes. It provides for a copy of the regulations and guidance relating to children's homes to be available in each children's home (regulation 18); specifies certain events to be notified to specified persons (regulation 19); provides for a procedure to be established when a child is absent from the home without permission (regulation 20); sets out the procedure to be followed if the person in charge of a voluntary home or registered children's home proposes to be absent (regulation 21); and provides for visits to homes on behalf of the responsible authority (regulation 22).

Parts IV and V relate to the registration of voluntary homes and registered children's homes. They provide for particulars to be supplied with application for registration of voluntary homes and registered children's homes (regulations 23 and 29 and Schedules 4 and 5); enable the registration authority to limit the number of children who may be accommodated in such homes (regulations 24 and 30); provide for the annual review of the registration of voluntary homes and registered children's homes (regulations 25 and 31); provide for the inspection of homes before granting registration, and twice yearly thereafter (regulations 26 and 32); provide for cancellation of the registration of voluntary homes and registered children's homes (regulations 27 and 32); specify the details to be supplied and notice to be given by a responsible authority to the registration authority if it is proposed to change the person in charge of the home (regulations 28 and 34 and Schedule 6).

Part VI relates to authority visits to children in homes. It provides for visits to be made at prescribed intervals by authorities to children in voluntary homes and registered children's homes (regulations 35 to 37).

Part VII revokes the Children and Young Persons (Voluntary Homes) Regulations (Northern Ireland) 1975 which are superseded by these Regulations (regulation 38).

Articles 73, 74(2)(h), 77(3), 80(2), (3), (4), (5), 82(1), 89, 91(2)(h), 93(3), 96(2), (3), (4), (5), 98(1) and 105 of the Children (Northern Ireland) Order 1995 are the enabling provision under which these Regulations are made. There were brought into operation on 18th July 1996 by Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 453

CHILDREN

**The Arrangements for Placement of Children (General) Regulations
(Northern Ireland) 1996**

Made 25th September 1996

Coming into operation 4th November 1996

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Application of Regulations
3. Making of arrangements
4. Considerations on making and contents of arrangements
5. Notification of arrangements
6. Arrangements for contact
7. Health requirements
8. Establishment of records
9. Retention and confidentiality of records
10. Register
11. Access by guardian ad litem to records and register
12. Arrangements between authorities and area authorities
13. Application of Regulations to short-term placements

SCHEDULES

1. Considerations to which responsible authorities are to have regard
2. Health considerations to which responsible authorities are to have regard
3. Educational considerations to which responsible authorities are to have regard
4. Matters to be included in arrangements to accommodate children who are not in care

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 27(2)(a) and (f)(ii) and (5), 28, 73(1) and (2)(d), 75(2) and (3), 89(1) and (2)(g) and 105(1) and (2)(g) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.(1) These Regulations may be cited as the Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“area authority” means, in relation to a child who is or is to be placed, the authority in whose area the child is or is to be placed, where the child is looked after by a different authority;

“care case” means a case in which the child is in the care of an authority(b);

“guardian ad litem” means a guardian ad litem appointed pursuant to Article 60 of the Order or under rules made under Article 66 of the Adoption (Northern Ireland) Order 1987(c);

“health services” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(d);

“placement”, subject to regulation 13, means –

- (a) the provision of accommodation and maintenance by an authority for any child whom it is looking after by any of the means specified in Article 27(2)(a), (b), (c), (d) or (f) of the Order (accommodation and maintenance for children looked after by an authority);
- (b) the provision of accommodation for a child by a voluntary organisation by any of the means specified in Article 75(1)(a), (b), (c), (d) or (f) of the Order (provision of accommodation for children by voluntary organisations); and

(a) S.I. 1995/755 (N.I.2)

(b) See the definition of “care order” in Article 2(2) of the Children (Northern Ireland) Order 1995 and paragraphs 11, 12 and 30 of Schedule 8 to that Order

(c) S.I. 1987/2203 (N.I.22); paragraph 166 of Schedule 9 to the Children (Northern Ireland) Order 1995 substituted a new Article 66 with effect from 19th February 1996

(d) S.I. 1972/1265 (N.I.14)

- (c) the provision of accommodation for a child in a registered children's home;

“responsible authority” means –

- (a) in relation to a placement by an authority (including one in which the child is accommodated and maintained in a voluntary home or a registered children's home), the authority which places the child;
- (b) in relation to a placement by a voluntary organisation of a child who is not looked after by an authority, the voluntary organisation which places the child; and
- (c) in relation to a placement in a registered children's home of a child who is neither looked after by an authority nor accommodated in such a home by a voluntary organisation, the person carrying on the home.

- (3) Any notice required under these Regulations is to be given in writing and may be sent by ordinary post.

Application of Regulations

2.-(1) Subject to paragraph (2), these Regulations apply to placements –

- (a) by an authority of any child;
- (b) by a voluntary organisation of a child who is not looked after by an authority;
- (c) in a registered children's home of a child who is neither looked after by an authority nor accommodated in such a home by a voluntary organisation, by the person carrying on the home.

(2) These Regulations shall not apply to placements of a child, otherwise than by an authority or voluntary organisation, in a school (as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a)).

Making of arrangements

3.-(1) Before they place a child the responsible authority shall, so far as is reasonably practicable, make immediate and long-term arrangements for that placement, and for promoting the welfare of the child who is to be placed.

(2) Where it is not practicable to make those arrangements before the placement, the responsible authority shall make them as soon as is reasonably practicable thereafter.

(3) In the case of a child to whom Article 22(5) of the Order applies (child aged 16 or over agreeing to be provided with accommodation) the arrangements shall, so far as is reasonably practicable, be agreed by the responsible authority with the child before a placement is made and if that is not practicable as soon as is reasonably practicable thereafter.

(4) In an other case in which a child is looked after or accommodated but is not in care, the arrangements shall, so far as is reasonably practicable, be agreed by the responsible authority with

(a) a person with parental responsibility for the child; or

(b) if there is no such person, the person who is caring for the child,

before a placement is made and if that is not practicable, as soon as is reasonably practicable thereafter.

(5) Any arrangements made by the responsible authority under this regulation shall be recorded in writing.

Considerations on making and contents of arrangements

4.-(1) The considerations to which the responsible authority is to have regard, so far as is reasonably practicable, in making the arrangements referred to in regulation 3 in each case are, the general considerations specified in Schedule 1, the considerations concerning the health of a child specified in Schedule 2 and the considerations concerning the education of a child specified in Schedule 3.

(2) Except in a care case, the arrangements referred to in regulation 3 shall include, where practicable, arrangements concerning the matters specified in Schedule 4.

Notification of arrangements

5.-(1) The responsible authority shall, so far as is reasonably practicable, notify the following persons of the arrangements to place a child before the placement is made –

(a) any person an indication of whose wishes and feelings have been sought under Article 26(2), 76(2) or 92(2) of the Order (consultation prior to decision – making in respect of children looked after by an authority, provided with accommodation by a voluntary organisation or in a registered children's home);

- (b) the education and library board for the area in which the child is living;
- (c) the child's medical practitioner;
- (d) any person who is caring for the child immediately before the arrangements are made;
- (e) the area authority;
- (f) except in a care case, any person in whose favour a contact order is in force with respect to the child; and
- (g) in a care case, any person who has contact with the child pursuant to Article 53 of the Order (parental contact etc. with children in care) or to an order under that Article.

(2) Where it is not practicable to give the notification before the placement, it shall be given as soon as is reasonably practicable thereafter.

(3) The responsible authority shall send a copy of the arrangements referred to in regulation 3, or such part of the arrangements as it considers will not prejudice the welfare of the child, with the notification referred to in paragraph (1), but in the case of notification to those specified in paragraph (1)(b) to (g) it shall send details of only such part of the arrangements as it considers those persons need to know.

Arrangements for contact

6. Operating the arrangements referred to in paragraph 6 of Schedule 4, a voluntary organisation or a person carrying on a registered children's home shall, unless it is not reasonably practicable or consistent with the child's welfare, endeavour to promote contact between the child and the persons mentioned in that paragraph.

Health requirements

7.-(1) A responsible authority shall, so far as is reasonably practicable before a placement is made, and if that is not reasonably practicable, as soon as practicable after the placement is made –

- (a) ensure that arrangements are made for the child to be examined by a medical practitioner;
and
- (b) require the medical practitioner who has carried out the examination to make 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 placement or the child is of sufficient understanding and he refuses to submit to the examination.

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

Establishment of records

8.f(1) A responsible authority shall establish, if one is not already in existence, a written case record in respect of each child whom is places.

(2) the record shall include –

- (a) a copy of the arrangements referred to in regulation 3;
- (b) a copy of any written report in its possession concerning the welfare of the child;
- (c) 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;
- (d) details of arrangements for contact, of contact orders and of other court orders relating to the child; and
- (e) details of any arrangements whereby another person acts on behalf of the authority or organisation which placed the child.

Retention and confidentiality of records

9.-(1) A case record relating to a child who is placed shall be retained by the responsible 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, for a period of 15 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 a record in some other accessible form (such as by means of a computer).

(3) A responsible authority shall secure the safekeeping of case records and shall take all necessary steps to ensure that information contained in them is treated as confidential, subject only to –

- (a) any statutory provision under which access to such records or information may be obtained or given; or
- (b) any court order under which access to such records or information may be obtained or given.

Register

10.(1) An authority shall, in respect of every child placed in its area (by the authority and any other responsible authority) and every child placed by the authority outside its area, enter into a register to be kept for the purpose –

- (a) the particulars specified in paragraph (3); and
- (b) such of the particulars specified in paragraph (4) as may be appropriate.

(2) A voluntary organisation and a person carrying on a registered children's home shall, in respect of every child placed by them, enter into a register to be kept for the purpose –

- (a) the particulars specified in paragraph (3); and
- (b) such of the particulars specified in paragraph (4) as may be appropriate.

(3) The particulars to be entered into the register in accordance with paragraph (1) or (2) are –

- (a) the name, sex and date of birth of the child;
- (b) the name and address of the person with whom the child is placed and, if different, of those of the child's parent or other person not being a parent of his who has parental responsibility for him;
- (c) in the case of a child placed on behalf of an authority by a voluntary organisation or in a registered children's home, the name of the authority;
- (d) whether the child's name is entered on any authority register indicating that the child is at risk of being abused;
- (e) whether the child's name is entered on the register maintained under paragraph 3 of Schedule 2 to the Order (register of disabled children);

(f) the date on which each placement of the child began and terminated and the reason for each termination;

(g) in a care case, the name of the authority in whose care the child is; and

(h) the legal provisions under which the child is being looked after or cared for.

(4) The additional particulars to be entered in the register in accordance with paragraph (1) or (2) are –

(a) in the case of a child placed by an authority in respect of whom arrangements have been made for the area authority to carry out functions pursuant to regulation 12, a note that the arrangements were made and the name of the other authority with whom they were made; and

(b) in the case of a child who has been placed, in respect of whom arrangements have been made for supervision of the placement to be carried out on behalf of a responsible authority (otherwise than pursuant to regulation 12), a note that the arrangements were made and the name of the person with whom the arrangements were made.

(5) Entries in registers kept in accordance with this regulation shall be retained until the child to whom the entry relates attains the age of 23 or, if the child dies before attaining 23, the period of 5 years beginning with the date of his death.

(6) The requirements of paragraph (1) may be complied with either by retaining the original register, or a copy of it, or by keeping all of the information from such a register in some other accessible form (such as by means of a computer).

(7) A responsible authority shall secure the safekeeping of registers kept in accordance with this regulation and shall take all necessary steps to ensure that information contained in them is treated as confidential, subject only to *f*

(a) any statutory provision under which access to such registers or information may be obtained or given; or

(b) any court order under which access to such registers or information may be obtained or given.

Access by guardians ad litem to records and register

11. Each voluntary organisation, where it is not acting as an authorised person(a), and every person carrying on a registered children's home shall provide a guardian ad litem of a child with –

- (a) such access as may be required to –
 - (i) case records and registers maintained in accordance with these Regulations,
and
 - (ii) the information from such records or registers held in whatever form (such as by means of a computer);
- (b) such copies of the records or entries in the registers as he may require.

Arrangements between authorities and area authorities

12. Where arrangements are made by an authority which is looking after a child with an area authority to carry out functions in relation to a placement on behalf of the authority –

- (a) the authority shall supply the area authority with all such information as is necessary to enable the area authority to carry out those functions on behalf of the authority;
- (b) the area authority shall keep the authority informed of the progress of the child and, in particular, shall furnish reports to the authority following each visit to the home in which the child is placed and following each review of the case of the child carried out by the area authority on behalf of the authority;
- (c) the authority and the area authority shall consult each other as necessary, and as soon as is reasonably practicable after each such review of the case of the child, with regard to what action is required in relation to him.

(a) For access by guardians ad litem to authority and authorities person's records *see* Article 61 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I.2)). "Authorised person" is defined in Article 49(2) of that Order

Application of Regulations to short-term placements

13.-(1) This regulation applies where a responsible authority has arranged to place a child in a series of short-term placements at the same place and the arrangement is such that no single placement is to last for more than 4 weeks and the total duration of the placements is not to exceed 90 days in any period of 12 months.

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of these Regulations.

Sealed with the Official Seal of the Department of Health and Social
Services on 25th September 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

SCHEDULE 1

Regulation 4(1)

Considerations to which responsible authorities are to have regard

1. In the case of a child who is in care, whether an application should be made to discharge the care order.
2. Where the responsible authority is an authority, whether the authority should seek a change in the child's legal status.
3. Arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others so far as is consistent with his welfare.
4. The responsible authority's immediate and long-term arrangements for the child, previous arrangements in respect of the child, and whether a change in those arrangements is needed and consideration of alternative courses of action.
5. Where the responsible authority is an authority, whether an independent visitor should be appointed if one has not already been appointed.
6. Whether arrangements need to be made for the time when the child will no longer be looked after by the responsible authority.
7. Whether plans need to be made to find a permanent substitute family for the child.

SCHEDULE 2

Regulation 4(1)

**Health considerations to which responsible authorities
are to have regard**

1. The child's state of health.
2. The child's health history.
3. The effect of the child's health and health history on his development.
4. Existing arrangements for the child's medical and dental care and treatment, and health and dental surveillance.
5. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
6. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing.

SCHEDULE 3

Regulation 4(1)

**Educational considerations to which responsible authorities
are to have regard**

1. The child's education history.
2. The need to achieve continuity in the child's education.
3. The need to identify any educational need which the child may have and to take action to meet that need.
4. The need to carry out any assessment in respect of any special educational need under the Education and Libraries (Northern Ireland) Order 1986^(a) and meet any such needs identified in a statement of special educational needs made under Article 31(1) of that Order.

^(a) S.I. 1986/594 (N.I.3)

SCHEDULE 4

Regulation 4(2)

**Matters to be included in arrangements to accommodate
children who are not in care**

1. 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 responsible authority.

2. The details of any services to be provided for the child.

3. The respective responsibilities of the responsible authority and –

- (a) the child;
- (b) any parent of his; and
- (c) any person who is not a parent of his but who has parental responsibility for him.

4. What delegation there has been by the persons referred to in paragraph 3(b) and (c) to the responsible authority of parental responsibility for the child's day to day care.

5. The arrangements for involving those persons and the child in decision-making with respect to the child having regard to –

- (a) the authority's duty under Articles 21(6) (involvement of children before provision of accommodation) and 26(1) to (3) of the Order (general duty of authorities in relation to children looked after by them);
- (b) the duty of voluntary organisation under Article 76(1) to (3) of the Order (duties of voluntary organisations); and
- (c) the duty of the person carrying on a registered children's home under Article 92(1) to (3) of the Order (duties of person carrying on a registered children's home).

6. The arrangements for contact between the child and –

- (a) his parents;

- (b) any person who is not a parent of his but who has parental responsibility for him; and
- (c) any relative, friend or other person connected with him,

and, if appropriate, the reasons why contact with any such person would not be reasonably practicable or would be inconsistent with the child's welfare.

7. The arrangements for notifying changes in arrangements for contact to any of the persons referred to in paragraph 6.

8. In the case of a child aged 16 or over whether Article 22(5) of the Order (accommodation of a child of 16 or over despite parental opposition) applies.

9. The expected duration of arrangements and the steps which should apply to bring the arrangements to an end, including arrangements for rehabilitation of the child with the person with whom he was living before the voluntary arrangements were made or some other suitable person, having regard in particular, in the case of an authority looking after a child, to Articles 27(7) (duty to place children where practicable with parents etc) and 29 of the Order (promotion and maintenance of contact between child and family).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the arrangements for placement of children by authorities, voluntary organisations and persons carrying on registered children's homes. These placements are with foster parents, in homes provided by authorities, in voluntary children's homes or registered children's homes and under other arrangements.

The Regulations make provision for the application of the Regulations (regulation 2); the making of arrangements for accommodation and maintenance, and promotion of the welfare of children (regulation 3); the considerations to be given on making the arrangements and, except in a care case, the contents of those arrangements (regulation 4 and Schedules 1 to 4); those who must be notified of the arrangements (regulation 5); the arrangements for contact in respect of children placed by voluntary organisations or in a registered children's home (regulation 6); health requirements (regulation 7); the establishment of records (regulation 8); the retention and confidentiality of records (regulation 9); registers of relevant information (regulation 10); the access by guardians ad litem to records and registers (regulation 11); arrangements made between authorities and other authorities for carrying out responsibilities in respect of those arrangements (regulation 12) and the application of the Regulations to short-term placements (regulation 13).

Articles 27(2)(a) and (f)(ii) and (5), 28 73(1) and (2)(d), 75(2) and (3), 89(1) and (2)(g) and 105(1) and (2)(g) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 461

CHILDREN

**The Review of Children's Cases Regulations
(Northern Ireland) 1996**

Made 30th September 1996

Coming into operation 4th November 1996

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Review of children's cases
3. Time when case is to be reviewed
4. Manner in which cases are to be reviewed
5. Considerations to which responsible authorities are to have regard
6. Health reviews
7. Consultation, participation and notification
8. Arrangements for implementation of decisions arising out of reviews
9. Monitoring arrangements for reviews
10. Recording review information
11. Application of the Regulations to short periods
12. Exceptions to application of Regulations
13. Transitional provisions

SCHEDULES

1. Elements to be included in review
2. Considerations to which responsible authorities are to have regard
3. Health consideration to which responsible authorities are to have regard

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 45(1) and (2), 75(4)(a) and (5) and 105(1) and (2)(1) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Review of Children's Cases Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“guardian ad litem” means a guardian ad litem appointed pursuant to Article 60 of the Order or rules made under Article 66 of the Adoption (Northern Ireland) Order 1987(a);

“independent visitor” means an independent visitor appointed under Article 31 of the Order;

“responsible authority” means in relation to –

- (a) a child who is being looked after by an authority, that authority;
- (b) a child who is being provided with accommodation by a voluntary organisation otherwise than on behalf of an authority, that voluntary organisation;
- (c) a child who is being provided with accommodation in a registered children's home otherwise than on behalf of an authority or voluntary organisation, the person carrying on that home.

(3) In these Regulations, any reference to a review is a reference to a review carried out in pursuance of regulation 3, 11 or 13 as the case may be.

(4) Any notice required under these Regulations is to be given in writing and may be sent by ordinary post.

Review of children's cases

2. Each responsible authority shall review in accordance with these Regulations the case of each child while he is being looked after or provided with accommodation by it.

(a) S.I. 1987/2203 (N.I.22); paragraph 166 of Schedule 9 to the Children (Northern Ireland) Order 1995 substituted a new Article 66 with effect from 19th February 1996

Time when case is to be reviewed

3.-(1) Each case is first to be reviewed within 2 weeks of the date upon which the child begins to be looked after or provided with accommodation by a responsible authority.

(2) The second review shall be carried out not more than 3 months after the first and thereafter subsequent reviews shall be carried out at intervals of not more than 6 months after the date of the previous review.

Manner in which cases are to be reviewed

4.-(1) Each responsible authority shall set out in writing its arrangements governing the manner in which the case of each child shall be reviewed and shall draw the written arrangements to the attention of those specified in regulation 7(1).

(2) The responsible authority which is looking after or providing accommodation for a child shall make arrangements to co-ordinate the carrying out of all aspects of the review of that child's case.

(3) The responsible authority shall appoint one of its officers to assist it in the co-ordination of all aspects of the review.

(4) The manner in which each case is reviewed shall, so far as is practicable, include the elements specified in Schedule 1.

(5) Nothing in these Regulations shall prevent the carrying out of any review under these Regulations and any other review, assessment or consideration under any other provision at the same time.

Considerations to which responsible authorities are to have regard

5. The considerations to which the responsible authority is to have regard, so far as is reasonably practicable, in reviewing each case are the general considerations specified in Schedule 2 and the considerations concerning the health of the child specified in Schedule 3.

Health reviews

6. The responsible authority shall make arrangements for a child who continues to be looked after or provided with accommodation by it to be examined by a medical practitioner and for a written assessment on the state of health of the child and his need for health care to be made –

- (a) at least once in every period of 6 months before the child's fifth birthday; and

- (b) at least once in every period of 12 months after the child's fifth birthday,

unless the child is of sufficient understanding and he refuses to submit to the examination.

Consultation, participation and notification

7.f(1) Before conducting any review the responsible authority shall, unless it is not reasonably practicable to do so, seek and take into account the views of –

- (a) the child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him; and
- (d) any other person whose views the responsible authority considers to be relevant,

including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review.

(2) The responsible authority shall, so far as is reasonably practicable, involve the persons whose views are sought under paragraph (1) in the review including, where the responsible authority considers appropriate, the attendance of those persons at part or all of any meeting which is to consider the child's case in connection with any aspect of the review of that case.

(3) The responsible authority shall, so far as is reasonably practicable, notify details of the result of the review and of any decision taken by it in consequence of the review to –

- (a) the child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him; and
- (d) any other person whom is considers ought to be notified.

Arrangements for implementation of decisions arising out of reviews

8. The responsible authority shall make arrangements itself or with other persons to implement any decision which the responsible authority proposes to make in the course of, or as a result of, the review of a child's case.

Monitoring arrangements for reviews

9. Each responsible authority shall monitor the arrangements which it has made with a view to ensuring that they comply with these Regulations.

Recording review information

10. Each responsible authority shall ensure that –

- (a) information obtained in respect of the review of a child's case;
- (b) details of the proceedings at any meeting arranged by the responsible 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 made in the course of, or as a result of, the review,

are recorded in writing.

Application of the Regulations to short periods

11.-(1) This regulation applies to cases in which a responsible authority has arranged that a child should be looked after or provided with accommodation for a series of short periods at the same place and the arrangement is such that no single period is to last for more than 4 weeks and the total duration of the periods is not to exceed 90 days in any period of 12 months.

(2) Regulation 3 shall not apply to a case to which this regulation applies, but instead –

- (a) each such case is first to be reviewed within 3 months of the beginning of the first of the short periods;
- (b) if the case continues, the second review shall be carried out not more than 6 months after the first; and

(c) thereafter, if the case continues, subsequent reviews shall be carried out not more than 6 months after the date of the previous review.

(3) For the purposes of regulation 6, a child shall be treated as continuing to be looked after or provided with accommodation throughout the period that this regulation applies to his case.

Exceptions to application of the Regulations

12. These Regulations shall not apply in the case of a child who is being provided with accommodation, otherwise than on behalf of an authority or voluntary organisation in a school (as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a)).

Transitional provisions

13.f(1) Where immediately before 4th November 1996 a child was being looked after or provided with accommodation by a responsible authority, regulation 3 shall have effect subject to paragraphs (2) to (4).

(2) Where a child has been looked after or provided with accommodation by a responsible authority for less than 2 weeks before 4th November 1996 and –

(a) there has not been a review of the case, that child's case shall be reviewed within 2 weeks of 4th November 1996 and thereafter in accordance with regulation 3(2);

(b) there has been a review of the case before 4th November 1996, that child's case shall be reviewed thereafter in accordance with regulation 3(2).

(3) Where a child had been looked after or provided with accommodation by a responsible authority for 2 weeks or more, but for less than 3 months, before 4th November 1996 and –

(a) there has not been a review of the case, that child's case shall be reviewed within 3 months of 4th November 1996 and thereafter at intervals of not more than 6 months after the date of the previous review;

(b) there has been a review of the case before 4th November 1996, that child's case shall be reviewed thereafter at intervals of not more than 6 months after the date of the previous review.

(4) Where a child had been looked after or provided with accommodation by a responsible authority for 3 months or more, but for less than 6 months, before 4th November 1996 and –

(a) there has not been a review of the case by 4th November 1996, that child's case shall be reviewed thereafter at intervals of not more than 6 months after the date of the previous review.

Sealed with the Official Seal of the Department of Health and Social Services on 30th September 1996.

(L.S.)

P.A. Conliffe
Assistant Secretary

SCHEDULE 1

Regulation 4(4)

Elements to be included in the review

1. Keeping informed of the arrangements for looking after the child and of any relevant change in the child's circumstances.
2. Keeping informed of the name and address of any person whose views should be taken into account in the course of the review.
3. Making necessary preparations and providing any relevant information to the participants in any meeting of the responsible authority which considers the child's case in connection with any aspect of the review.
4. Initiating meetings of relevant personnel of the responsible authority and other relevant persons to consider the review of the child's case.
5. Explaining to the child any steps which he may take under the Order including, where appropriate, *f*
 - (a) his right to apply, with leave, for an Article 8 Order (residence, contact and other orders with respect to children);
 - (b) where he is in care, his right to apply for the discharge of the care order; and
 - (c) the availability of the procedure established under the Order for considering representations.
6. Making decisions or taking steps following review decisions arising out of, or resulting from, the review.

SCHEDULE 2

Regulation 5

**Considerations to which responsible authorities
are to have regard**

1. In the case of a child who is in care, whether an application should be made to discharge the care order.
2. Where the responsible authority is an authority, whether it should seek a change in the child's legal status.
3. Arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others, so far as is consistent with his welfare.
4. Any special arrangements that have been made or need to be made for the child, including the carrying out of assessments either by an authority or other persons, such as those in respect of special educational need under the Education and Libraries (Northern Ireland) Order 1986(a).
5. The responsible authority's immediate and long-term arrangements for looking after the child or providing the child with accommodation (made pursuant to the provisions of the Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996(b)), whether a change in those arrangements is needed and consideration of alternative course of action.
6. Where the responsible authority is an authority, whether an independent visitor should be appointed if one has not already been appointed.
7. The child's educational needs, progress and development.
8. Whether arrangements need to be made for the time when the child will no longer be looked after or provided with accommodation by the responsible authority.
9. Whether plans need to be made to find a permanent substitute family for the child.

(a) S.I. 1986/594 (N.I.3)
(b) S.R. 1996 No. 453

SCHEDULE 3

Regulation 5

**Health considerations to which responsible
authorities are to have regard**

1. The child's state of health.
2. The child's health history.
3. The effect of the child's health and health history on his development.
4. Existing arrangements for the child's medical and dental care and treatment, and health and dental surveillance.
5. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
6. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the review of the cases of children who are looked after by an authority or provided with accommodation by a voluntary organisation or in a registered children's home.

The Regulations make provision for the review of such cases (regulation 2); the time when cases are to be reviewed (regulation 3); the manner in which cases are to be reviewed, (regulation 4 and Schedule 1); the consideration to which there should be regard (regulation 5 and Schedules 2 and 3); health reviews (regulation 6); consultation and participation in reviews and notification of results of reviews (regulation 7); the arrangements for implementation of decisions arising out of reviews (regulation 8); monitoring the arrangements for reviews (regulation 9); recording review information (regulation 10); application of the Regulations to children accommodated for short periods (regulation 11); exceptions to the application of the Regulations (regulation 12) and transitional arrangements in relation to certain children accommodated before 4th November 1996 (regulation 13).

Articles 45(1) and (2), 75(4)(a) and (5) and 105(1) and 2(I) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 443

CHILDREN

Contact with Children Regulations Northern Ireland) 1996

Made 23rd September 1996

Coming into operation 4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 53(8) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Contact with Children Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations, any reference to a numbered Article is to the Article of the Children (Northern Ireland) Order 1995 bearing that number.

(3) Any notice required under these Regulations is to be given in writing and may be sent by ordinary post.

Authority refusal of contact with child

2. Where an authority has decided under Article 53(6) to refuse contact with a child that would otherwise be required by virtue of Article 53(1) or an order under Article 53, the authority shall, as soon as the decision has

(a) S.I. 1995/755 (N.I.2)

been made, notify the following persons of those parts of the information specified in the Schedule as the authority considers those persons need to know –

- (a) the child, if he is of sufficient understanding;
- (b) the child's parents;
- (c) any guardian of his;
- (d) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the residence order was made;
- (e) where immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person; and
- (f) any other person whose wishes and feelings the authority considers to be relevant.

Departure from terms of court order on contact under Article 53

3.-(1) Subject to paragraph (2), an authority may depart from the terms of any order under Article 53 (parental contact etc. with children in care) by agreement between the authority and the person in relation to whom the order is made.

(2) An agreed under paragraph (1) is subject to the agreement of the child where he is of sufficient understanding.

(3) Within 7 days of an agreement under paragraph (1), notification shall be sent to the persons specified in regulation 2 containing those parts of the information specified in the Schedule as the authority considers those persons need to know.

Notification of variation or suspension of contact arrangements

4. Where an authority varies or suspends any arrangements made (otherwise than under an order made under Article 53) with a view to affording any person contact with a child in the care of that authority, notification shall be sent to those persons specified in regulation 2 containing those parts of the information specified in the Schedule as the authority considers those persons need to know, as soon as the decision is made to vary or suspend the arrangements.

Sealed with the Official Seal of the Department of Health and Social
Services on 23rd September 1996.

(L.S.)

P. A. Conliffe
Assistant Secretary

SCHEDULE

Regulations 2, 3 and 4

Information to be contained in written notification

1. Authority's decision.
2. Date of the decision.
3. Reasons for the decision.
4. Duration (if applicable).
5. Remedies available in case of dissatisfaction.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the steps to be taken by an authority which has refused to allow contact between a child in care and his parents and others specified in Article 53(1) of the Children (Northern Ireland) Order 1995 (“the Order”), which include notifying those persons and anyone else whose wishes and feelings the authority considers to be relevant (regulation 2).

The Regulations provide for the authority to depart from the terms of any order under Article 53 of the Order as to contact, by agreement between the authority and the person about whom the order was made, where the child agrees. If he is of sufficient understanding, and where a written notification of details of the decision is sent to the person specified in regulation 2 (regulation 3). They provide for the authority to notify those persons of details of any decision to vary or suspend any arrangements made, other than under an order under Article 53 of the Order, so as to allow any person contact with a child in care (regulation 4).

The Schedule sets out the details of the information which may be given in each case.

Article 53(8) of the Order is the enabling provision under which these Regulations are made. It was brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No.297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 451

CHILDREN

**The Representations Procedure (Children) Regulations
Northern Ireland) 1996**

Made 25th September 1996

Coming into operation 4th November 1996

1. Citation, commencement and interpretation

PART II

REPRESENTATIONS AND THEIR CONSIDERATION

2. Authority action
3. Preliminaries
4. Appointment of independent person
5. Consideration by authority with independent person
6. Withdrawal of representations
7. Notification to complainant and reference to panel
8. Recommendations

PART III

REVIEW OF PROCEDURE

9. Monitoring of operation of procedure

PART IV

APPLICATION OF THE REGULATIONS TO VOLUNTARY ORGANISATIONS AND REGISTERED CHILDREN'S HOMES AND IN SPECIAL CASES

10. Application to voluntary organisations and registered children's homes
11. Exceptions to application of Regulations
12. Special cases including application to representations by foster parents

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 37(2), 45(5) and (6), 75(4) and (5), 105(1) and (2)(J) of, and paragraph 6(2) of Schedule 5 to, the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

INTRODUCTORY

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Representations Procedure (Children) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“complainant” means a person qualifying for advice and assistance about the discharge of an authority's functions under Part IV of the Order in relation to him, or a person specified in Article 45(3)(a) to (e) of the Order making any representations;

“independent person” means in relation to representations made to, or treated as being made to, an authority, a person who is neither a member nor a director nor an officer of that authority, nor the spouse of any such person;

“panel” means a panel of 3 persons;

“representations” means representations referred to in Article 37(1) or 45(3) of the Order.

(3) Any notice required under these Regulations is to be given in writing and may be sent by ordinary post.

PART II

REPRESENTATIONS AND THEIR CONSIDERATION

Authority action

2.-(1) Any authority shall appoint one of its officers to assist it in the co-ordination of all aspects of its consideration of representations.

(2) An authority shall take all reasonable steps to ensure that everyone involved in the handling of representations, including independent persons, is familiar with the procedure set out in these Regulations.

Preliminaries

3.-(1) Where an authority receives representations from any complainant, except from a person to whom Article 45(3)(e) of the Order may apply, the authority shall send to the complainant an explanation of the procedure set out in these Regulations, and offer assistance and guidance on the use of the procedure, or give advice on where he may obtain it.

(2) Where oral representations are made, an authority shall forthwith cause them to be recorded in writing, and sent to the complainant, who shall be given the opportunity to comment on the accuracy of the record.

(3) An authority shall consider any comments made by the complainant under paragraph (2) and shall make any amendments to the record which it considers to be necessary.

(4) For the purposes of the following provisions of these Regulations, the written record referred to in paragraph (2), as amended where appropriate in accordance with paragraph (3), shall be deemed to be the representations.

(5) Where an authority receives representations from a person to whom it considers Article 45(3)(e) of the Order may apply, the authority shall –

(a) forthwith consider whether the person has a sufficient interest in the child’s welfare to warrant his representations being considered by the authority;

(b) if the authority considers that he has a sufficient interest, cause the representations to be dealt with in accordance with the provisions of these Regulations, and send to the complainant an explanation of the procedure set out in the Regulations, and offer assistance and guidance on the use of the procedure, or give advice on where he may obtain it;

(c) if the authority considers that he has not got a sufficient interest it shall notify him accordingly, and inform him that no further action will be taken;

(d) if the authority considers it appropriate to do so having regard to his understanding, it shall notify the child of the result of its consideration.

(6) Where paragraph (5)(b) applies, the date at which the authority concludes that the person has a sufficient interest shall be treated for the purposes of these Regulations as the date of receipt of the representations.

Appointment of independent person

4. Where an authority receives representations under regulation 3, it shall appoint an independent person to take part in the consideration of them, unless regulation 3(5)(c) applies.

Consideration by authority with independent person

5.-(1) An authority shall consider the representations with the independent person and formulate a response within 28 days of their receipt.

(2) The independent person shall take part in any discussions which are held by the authority about the action, if any, to be taken in relation to the child in the light of the consideration of the representations.

Withdrawal of representations

6. The representations may be withdrawn at any stage by the person making them.

Notification to complainant and reference to panel

7.-(1) An authority shall give notice within the period specified in regulation 5 to –

(a) the complainant;

(b) if different, the person on whose behalf the representations were made, unless the authority considers that he is not of sufficient understanding or it would be likely to cause serious harm to his health or emotional condition;

- (c) the independent person;
- (d) any other person whom the authority considers has sufficient interest in the case,

of the proposed result of the authority's consideration of the representations and the complainant's right to have the matter referred to a panel under paragraph (2).

(2) If the complainant informs the authority in writing within 28 days of the date on which notice is given under paragraph (1) that he is dissatisfied with the proposed result and wishes the matter to be referred to a panel for consideration of the representations, a panel shall be appointed by the authority for that purpose.

(3) The panel shall include at least one independent person.

(4) The panel shall meet within 28 days of the receipt by the authority of the complainant's request that the matter be referred to a panel.

(5) At that meeting the panel shall consider –

- (a) any oral or written submissions that the complainant or the authority wish to make;
and
- (b) if the independent person appointed under regulation 4 is different from the independent person on the panel, any oral or written submissions which the independent person appointed under regulation 4 wishes to make.

(6) If the complainant wishes to attend the meeting of the panel he may be accompanied throughout the meeting by another person of his choice, and may nominate that other person to speak on his behalf.

Recommendations

8.-(1) When a panel meets in accordance with regulation 7, it shall decide on its recommendations and record these with its reasons in writing within 24 hours of the end of the meeting.

(2) The panel shall give notice of its recommendations to –

- (a) the authority;
- (b) the complainant;

(c) the independent person appointed under regulation 4, if different from the independent person on the panel;

(d) any other person whom the authority considers has sufficient interest in the case.

(3) The authority shall, together with the independent person appointed to the panel under regulation 7(3), consider what action, if any, should be taken in relation to the child in the light of the representation, and that independent person shall take part in any discussions about any such action.

PART III

REVIEW OF PROCEDURE

Monitoring of operation of procedure

9.-(1) Each authority shall monitor the arrangements that it has made with a view to ensuring that they comply with the Regulations by keeping a record of each representation received, the outcome of each representation, and whether there was compliance with the time limits specified in regulations 5(1), 7(4) and 8(1).

(2) For the purposes of such monitoring, each authority shall, at least once in every period of 12 months, compile a report on the operation in that period of the procedure set out in these Regulations.

(3) The first report referred to in paragraph (2) shall be compiled within 12 months of the date of coming into operation of these Regulations.

PART IV

APPLICATION OF THE REGULATIONS TO VOLUNTARY ORGANISATIONS AND REGISTERED CHILDREN'S HOME AND IN SPECIAL CASES

Application to voluntary organisations and registered children's homes

10.-(1) The provisions of Parts I to III shall apply where accommodation is provided for a child by a voluntary organisation, and he is not looked after by an authority, as if –

(a) for references to “authority” there were substituted references to “voluntary organisation”;

(b) for the definition in regulation 1(2) of “complainant” there were substituted –

““complainant” means –

- (a) any child who is being provided with accommodation by a voluntary organisation;
- (b) a parent of his;
- (c) any person who is not a parent of his but who has parental responsibility for him;
- (d) such other person as the voluntary organisation considers has a sufficient interest in the child’s welfare to warrant his representations being considered by them;”;

(c) for the definition in regulation 1(2) of “independent person” there were substituted –

““independent person” means in relation to representations made to, or treated as being made to, a voluntary organisation, a person who is not an officer of that voluntary organisation nor a person engaged in any way in furthering its objects, nor the spouse of any such person;”;

(d) for the definition in regulation 1(2) of “representations” there were substituted –

““representations” means representations referred to in Article 75(4) of the Order about the discharge by the voluntary organisation of any of the organisation’s functions relating to Article 76 of the Order and any Regulations made under Article 75(4) of the Order in relation to the child;”;

(e) for the reference in regulation 3(1) and (5) to a person to whom Article 45(3)(e) of the Order may apply to whom the authority considers Article 45(3)(e) of the Order may apply, there was substituted a reference to a person who may fall within sub-paragraph (d) in the definition of “complainant” in these Regulations.

(2) The provisions of Parts I to III shall apply where accommodation is provided for a child in a registered children’s home, but where the child is neither looked after by an authority nor accommodated on behalf of a voluntary organisation, as if –

(a) for references to “authority” there were substituted references to “the person carrying on the home”;

(b) for the definition in regulation 1(2) of “complainant” there were substituted –

“complainant” means –

(a) any child who is being provided with accommodation in a registered children’s home;

(b) a parent of his;

(c) any person who is not a parent of his but who has parental responsibility for him;

(d) such other person as the person carrying on the home considers has a sufficient interest in the child’s welfare to warrant his representations being considered by them;”;

(c) for the definition in regulation 1(2) of “independent person” there were substituted –

“independent person” means in relation to representations made to a person carrying on a registered children’s home, a person who is neither involved in the management or operation of that home nor financially interested in its operation, nor the spouse of any such person;”;

(d) for the definition in regulation 1(2) of “representations” there were substituted –

“representations” means any representations (including any complaint) made in relation to the person carrying on the registered children’s home by a complainant about the discharge of his functions relating to Article 92 of the Order;”; and

(e) for the reference in regulation 3(1) and (5) to a person to whom Article 45(3)(e) of the Order may apply or to whom the authority considers Article 45(3)(e) of the Order may apply, there was substituted a reference to a person who may fall within sub-paragraph (d) in the definition of “complainant” in these Regulations.

Exceptions to application of Regulations

11. These Regulations shall not apply to representations made by a child or a person in respect of a child who is being provided with accommodation, otherwise than by an authority or voluntary organisation, in a school (as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a)).

Special cases including application to presentations by foster parents

12.-(1) Where representations would fall to be considered by more than one authority, they shall be considered by the authority which is looking after the child or by the authority within whose area the child is ordinarily resident where no authority has that responsibility.

(2) The provisions of Parts I to III and regulation 12(1), shall apply to the consideration by an authority of any representations (including any complaint) made to the authority by any person exempted or seeking to be exempted under paragraph 4 of Schedule 5 to the Order (foster parents: limits on numbers of foster children) about the discharge of the authority's functions under that paragraph, as if –

(a) for the definition in regulation 1(2) of “complainant” there were substituted –

“complainant means a person exempted or seeking to be exempted under paragraph 4 of Schedule 5 to the Order making any represents;”;

(b) for the definition in regulation 1(2) of “representations” there were substituted –

“representations” means representations referred to in paragraph 6 of Schedule 5 to the Order”;

(c) in regulation 3(1) the words “except from a person to whom Article 45(3)(e) of the Order may apply,” were omitted; and

(d) regulation 3(5) and (6) were omitted.

Sealed with the Official Seal of the Department of Health and Social
Services on 25th September 1996.

(L.S.)

P.A.Conliffe
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish a procedure for considering representations (including complaints) made to an authority about the discharge by the authority of any of its functions –

- (a) under Part IV of the Children (Northern Ireland) Order 1995 (“the Order”) in relation to a child looked after by it or in need;
- (b) where Article 37(1) of the Order applies (representations concerning advice and assistance for certain children aged 18 to 21);
- (c) under paragraph 4 of Schedule 5 to the Order (foster parents: limits on number of foster children) in relation to exemption from the usual fostering limit.

The Regulations apply, with modifications, the procedure for considering representations (including complaints) to voluntary organisations and persons carrying on registered children’s homes.

The Regulations make provision to include consideration of representations by an independent person and for reference of representations to a panel which is to make recommendations to the authority, organisation or person carrying on the home.

The Regulations also make provision for a record to be kept of all representations received and their outcome in order to monitor the operation of the procedure and for a report on the operation of the procedure to be prepared every 12 months.

Articles 37(2), 45(5) and (6), 75(4) and (5), 105(1) and (2)(I) of, paragraph 6(2) of Schedule 5 to, the Order are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 434

CHILDREN

**Definition of Independent Visitors (Children) Regulations
Northern Ireland) 1996**

Made 18th September 1996

Coming into operation 4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 31(7) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Definition of Independent Visitors (Children) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

Independent visitors

2. A person appointed by an authority as an independent visitor under Article 31(1) of the Children (Northern Ireland) Order 1995 shall be regarded as independent of the authority appointing him in the following circumstances –

- (a) where the person appointed is not connected with the authority by virtue of being –
 - (i) a member or director of the authority or a member of any of its committees or sub-committees,

(a) S.I. 1995/755 (N.I.2)

(ii) an officer of the authority, or

(iii) a spouse of any such person;

(b) where the child who is to receive visits from the person appointed is accommodated by an organisation other than the authority and the person appointed is not –

(i) a member of that organisation,

(ii) a patron or trustee of that organisation,

(iii) an employee of that organisation, whether paid or not, or

(iv) a spouse of any such person.

Sealed with the Official Seal of the Department of Health and Social
Services on 18th September 1996.

(L.S.)

P.A.Conliffe
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the circumstances in which a person appointed as an independent visitor is to be regarded as independent of the authority appointing him.

Regulation 2(a) provides that authority members or directors, employees and their spouses, are not to be regarded as independent. Regulation 2(b) provides that where the child is accommodated on behalf of the authority by some organisation other than an authority, certain persons connected with that organisation shall not be regarded as independent.

Article 31(7) of the Children (Northern Ireland) Order 1995 is the enabling provision under which these Regulations are made. It was brought into operation on 18th July 1996 by Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) O1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 487

CHILDREN

**The Children (Secure Accommodation) Regulations
Northern Ireland) 1996**

Made 10th October 1996

Coming into operation 4th November 1996

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Placement of a child aged under 13 in secure accommodation
3. Children to whom Article 44 shall not apply
4. Applications to court
5. Duty to give notice of placement in an authority home
6. Maximum period in secure accommodation without court authority
7. Maximum initial period of authorisation by a court
8. Further periods of authorisation by a court
9. Duty to notify parents and others in relation to children in secure accommodation in an authority home
10. Appointment of persons to review placement in secure accommodation in an authority home
11. Review of placement in secure accommodation in an authority home
12. Records to be kept in respect of a child in secure accommodation in an authority home
13. Voluntary homes and registered children's homes not to be used for restricting liberty

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 44(3) and (8), 45(1) and (2), 73(1) and (2)(d), 89(1), (2)(f) and (3), 105(1), (2)(f) and (3) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Children (Secure Accommodation) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“authority home” means a home provided by an authority under Part VII of the Order;

“independent visitor” means a person appointed under Article 31(1);

“secure accommodation” means accommodation which is provided for the purpose of restricting the liberty of children to whom Article 44 applies.

(3) Any notice required under these Regulations is to be given in writing and may be sent by ordinary post.

(4) In these Regulations, any reference to a numbered Article is to the Article of the Order bearing that number.

Placement of a child aged under 13 in secure accommodation

2. Article 44 shall be modified in relation to a child under the age of 13 years of age so that a child under the age of 13 years shall not be placed in secure accommodation in an authority home without the prior approval of the Department.

Children to whom Article 44 shall not apply

3.-(1) Article 44 shall not apply to a child who is detained under any provision of the Mental Health (Northern Ireland) Order 1986(a).

(2) Article 44 shall not apply to a child –

(a) to whom Article 21(5) (accommodation of persons over 16 but under 21) applies and who is being accommodated under that Article; or

(a) S.I. 1986/595 (N.I.4)

(b) in respect of whom an order has been made under Article 62 (child assessment order) and who is kept away from home pursuant to that order.

Application to court

4. Applications to a court under Article 44 in respect of a child who is being looked after by an authority shall be made only by that authority.

Duty to give notice of placement in an authority home

5. Where a child is placed in secure accommodation in an authority home which is managed by an authority other than the authority which is looking after him, the authority which manages that accommodation shall give notice to the authority which is looking after him that he has been placed there, within 12 hours of his being placed there.

Maximum period in secure accommodation without court authority

6.-(1) Subject to paragraph (2), the maximum period beyond which a child to whom Article 44 applies may not be kept in secure accommodation without the authority of a court is an aggregate of 72 hours (whether or not consecutive) in any period of 28 consecutive days.

(2) Where authority of a court to keep a child in secure accommodation has been given, any period during which the child has been kept in such accommodation before the giving of that authority shall be disregarded for the purposes of calculating the maximum period in relation to any subsequent occasion on which the child is placed in such accommodation after the period authorised by the court has expired.

Maximum initial period of authorisation by a court

7. Subject to regulation 8, the maximum period for which a court may authorise a child to whom Article 44 applies to be kept in secure accommodation is 3 months.

Further periods of authorisation by a court

8. A court may authorise a child to whom Article 44 applies to be kept in secure accommodation for a further period not exceeding 6 months at any one time.

Duty to notify parents and others in relation to children in secure accommodation in an authority home

9. Where a child to whom Article 44 applies is kept in secure accommodation in an authority home and it is intended that an application will be made to a court to keep the child in that accommodation, the authority which is looking after the child shall, if practicable, give notice of that intention, as soon as possible, to –

- (a) his parents;
- (b) any person who is not a parent of his but who has parental responsibility for him;
- (c) the child's independent visitor, if one has been appointed; and
- (d) any other person who that authority considers should be informed.

Appointment of persons to review placement in secure accommodation in an authority home

10.-(1) Subject to paragraph (2), each authority looking after a child in secure accommodation in an authority home shall appoint at least 3 persons who shall review the keeping of the child in such accommodation for the purposes of securing his welfare within one month of the inception of the placement and then at intervals not exceeding 3 months where the child continues to be kept in such accommodation.

(2) At least one of the persons appointed in accordance with paragraph (1) should not be a member, director or officer of the authority by or on behalf of which the child is being looked after.

Review of placement in secure accommodation in an authority home

11.-(1) The persons appointed under regulation 10 to review the keeping of a child in secure accommodation shall have regard to whether or not

- (a) the criteria for keeping the child in secure accommodation continue to apply;
- (b) the placement in such accommodation in an authority home continues to be necessary; and
- (c) any other description of accommodation would be appropriate for him,

and in doing so shall have regard to the welfare of the child whose case is being reviewed.

(2) Before conducting the review referred to in regulation 10, the persons appointed shall, unless it is not reasonably practicable to do so, seek the views of –

- (a) the child;

- (b) any parent of his;
- (c) any person not being a parent of his but who has parental responsibility for him;
- (d) any other person who has had the care of the child, whose views the persons appointed consider should be taken into account;
- (e) the child's independent visitor, if one has been appointed; and
- (f) the authority managing the secure accommodation in which the child is placed, if that authority is not the authority which is looking after the child.

(3) The authority shall, so far as is reasonably practicable, notify all those whose views have been sought under paragraph (2), of the details of the result of the review and what action, if any, the authority proposes to take in relation to the child in the light of the review, and its reasons for taking or not taking such action.

Records to be kept in respect of a child in secure accommodation in an authority home

12. Whenever a child is placed in secure accommodation in an authority home, the authority which manages that accommodation shall ensure that a record is kept of –

- (a) the name, date of birth and sex of that child;
- (b) the care order or other statutory provision by virtue of which the child is in the home and in either case particulars of any other authority involved with the placement of the child in that home;
- (c) the date and time of his placement in secure accommodation, the reason for his placement, the name of the officer authorising the placement and where the child was living before the placement;
- (d) all those notified by virtue of regulation 9 or 11(3) in their application to the child;
- (e) court orders made in respect of the child by virtue of Article 44;
- (f) reviews undertaken in respect of the child by virtue of regulation 10;
- (g) the date and time of any occasion on which the child is locked on his own in any room in the secure accommodation other than his bedroom during usual bedtime hours, the

name of the person authorising this action, the reason for it and the date on which and time at which the child ceases to be locked in that room; and

(h) the date and time of his discharge and his address following discharge from secure accommodation,

and the Department may require copies of these records to be sent to it at any time.

Voluntary homes and registered children's homes not to be used for restricting liberty

13.-(1) The use of accommodation for the purpose of restricting the liberty of children in voluntary homes and registered children's homes is prohibited.

(2) The contravention of, or failure to comply with the provision of paragraph (1), without reasonable excuse, shall be an offence against these Regulations^(a).

Sealed with the Official Seal of the Department of Health and Social Services on 10th October 1996.

(L.S.)

P.A. Conliffe
Assistant Secretary

^(a) A person who is guilty of an offence against these Regulations is liable to a fine not exceeding level 4 on the standard scale; *see* Articles 89(4) and 105(4) of the Children (Northern Ireland) Order 1995

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement the provisions in Article 44 of the Children (Northern Ireland) Order 1995 (“the Order”) which govern the restriction of liberty of children who are being looked after by authorities.

The Regulations provide for approval by the Department of Health and Social Services to the placement of a child aged under 13 in secure accommodation (regulation 2); the children to whom Article 44 of the Order shall not apply (regulation 3); the making of applications to court (regulation 4); the duty to give notification of placements in authority homes (regulation 5); provision as to the maximum period in accommodation for restricting liberty without court authority (regulation 6); the maximum initial period of authorisation by any court (regulation 7); further periods of authorisation by a court (regulation 8); the duty to notify parents and others in relation to children in secure accommodation (regulation 9); the appointment of persons to review placements in secure accommodation (regulation 10); the review of placements in secure accommodation (regulation 11); the records to be kept in respect of a child in secure accommodation (regulation 12); and the prohibition of the use of accommodation for restricting liberty in voluntary homes and registered children’s home and breach thereof (regulation 13).

Articles 44(3) and (8), 45(1) and (2), 73(1) and (2)(d), 89(1), (2)(f) and (3), and 105(1), (2)(f) and (3) of the Order are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 480

CHILDREN

**The Refuges (Children's Homes and Foster
Placements) Regulations (Northern Ireland) 1996**

Made 8th October 1996

Coming into operation 4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 70(4) of the Children (Northern Ireland) Order 1995(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Refuges (Children's Homes and Foster Placements) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations –

“the order” means the Children (Northern Ireland) Order 1995;

“certificate” means a certificate issued under Article 70 of the Order (refuges for children at risk);

“designated officer” has the meaning assigned to it by Article 65 of the Order (removal and accommodation of children by police in cases of emergency);

“home” means a voluntary home or registered children's home;

(a) S.I. 1995/755 (N.I.2)

“responsible person”, in relation to a child, means –

- (a) except where a person has care of the child as mentioned in paragraph (b) –
 - (i) a parent of his,
 - (ii) a person who is not a parent of his, but who has parental responsibility for him, and
 - (iii) any person who for the time being has care of him, not being a person providing a refuge; or
- (b) any person who for the time being has care of the child by virtue of a care order, emergency protection order or Article 65 of the Order, as the case may be.

Requirements

2.-(1) This regulation applies while a certificate is in force with respect to a home or a foster parent.

(2) A child may not be provided with a refuge unless it appears to the person providing the refuge that the child is at risk of harm, unless the child is or continues to be provided with a refuge.

(3) As soon as is reasonably practicable after admitting a child to a home for the purpose of providing a refuge or after a foster parent provides a refuge for a child, and in any event within 12 hours of such provision, the person providing the refuge for the child shall –

- (a) notify the designated officer that a child has been admitted to the home, or provided with refuge by a foster parent, together with the telephone number by which the person providing the refuge for the child may be contacted;
- (b) if he knows the child’s name, notify the designated officer of that name; and
- (c) if he knows the child’s last permanent address, notify the designated officer of that address.

(4) Where subsequently the person providing the refuge discovers the child’s name or last permanent address, he shall immediately notify the designated officer accordingly.

(5) As soon as is reasonably practicable after providing the refuge for the child, and in any event within 12 hours of becoming aware of the identity of the responsible person for the child, the person providing the refuge shall notify the designated officer of the name and address of the responsible person.

(6) The requirements of paragraph (7) shall apply where the designated officer has been notified or is otherwise aware –

- (a) that a child is being provided with a refuge; and
- (b) of the name and address of the responsible person.

(7) The designated officer shall –

- (a) inform the responsible person –
 - (i) that the child is being provided with a refuge, and
 - (ii) by whom the refuge is being provided;
- (b) notify the responsible person of a telephone number by which the person providing the refuge for the child may be contacted; and
- (c) not disclose to any person the address of the place at which the refuge is provided.

(8) Where a child ceases to be provided with a refuge, the person who provided him with the refuge shall notify the designated officer.

(9) No child shall be provided with a refuge in any one place for a continuous period of more than 14 days, or for more than 21 days in any period of 3 months.

Withdrawal of a certificate

3.(1) The Department may withdraw a certificate at any time –

- (a) where a person providing a refuge fails to comply with a requirement of regulation 2;
- (b) where a person providing a refuge in a home fails to comply with any provision of Part II of the Children's Homes Regulations (Northern Ireland) 1996(a);
- (c) where a foster parent providing a refuge fails to comply with any provisions contained in the agreement relating to him concerning the matters to which paragraphs 3 to 9 of Schedule 2 to the Foster Placement (Children) Regulations (Northern Ireland) 1996(b) apply, and any provision contained in the agreement relating to him concerning the matters to which paragraphs 4 to 8 of Schedule 3 to those Regulations apply, or with any provision of regulation 11(4) of those Regulations in respect of an emergency placement under those Regulations; or
- (d) where the person providing a refuge or any person assisting him in that respect has had proceedings instituted against him in relation to, or has been convicted of, any criminal offence.

(2) Where a certificate is withdrawn, the person carrying on the home in respect of which, or the foster parent in respect of whom, it was issued shall return it immediately to the Department.

Sealed with the Official Seal of the Department of Health and Social
Services on 8th October 1996.

(L.S.)

P.A. Conliffe
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of voluntary homes and registered children's homes which are used as refuges and foster parents who provide refuges in accordance with Article 70 of the Children (Northern Ireland) Order 1995 ("the Order"). Regulation 2 provides for the requirements which are to be complied with while a certificate is in force and regulation 3 makes provision for the withdrawal of certificates by the Department of Health and Social Services.

Article 70(4) of the Order is the enabling provision under which these Regulations are made. It was brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).