

Draft Regulations laid before the National Assembly for Wales under section 187(2)(f),(g),(j) and (k) of the Regulation and Inspection of Social Care (Wales) Act 2016, for approval by resolution of the National Assembly for Wales.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. (W.)

SOCIAL CARE, WALES

**The Fostering Services (Fostering
Services Providers and Responsible
Individuals) (Wales) Regulations
2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 94A(1) of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”) provides that regulations may make provision about the exercise by local authorities of functions conferred on them by section 81 (ways in which looked after children are to be accommodated and maintained) or by regulations made under section 87 (regulations about looked after children) of that Act. Regulations made under section 87 of the 2014 Act may make further provision about children looked after by local authorities, including regulations about placements being made out of a local authority’s area (section 90), regulations about the placing of children with local authority foster parents (section 92) and regulations providing for the approval of local authority foster parents (section 93).

Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) introduced a new system of regulation of care and support services in Wales, replacing that established under the Care Standards Act 2000.

The 2016 Act also introduced a new concept of “regulated services” which is defined in section 2 of that Act. A person who wants to provide a regulated

(1) Section 94A and 94B are inserted into the 2014 Act by section 58 of the Regulation and Inspection of Social Care (Wales) Act 2016.

service must make an application for registration to the Welsh Ministers (in the exercise of their regulatory functions) specifying the regulated service that the person wants to provide.

Section 2(1)(e) of the 2016 Act provides that a fostering service is a regulated service, which is defined in Schedule 1 to that Act as meaning any service provided in Wales by a person other than a local authority which consists of or includes the placement of children with foster parents or exercising functions in connection with such a placement, and which is referred to in these Regulations as “an independent fostering services provider”.

Section 27 of the 2016 Act provides that regulations may impose requirements on an independent fostering services provider in relation to a regulated service. Section 28 further provides that regulations may impose requirements on responsible individuals designated by a regulated fostering services provider.

Section 30 of the 2016 Act enables the Welsh Ministers to make regulations about independent fostering services providers who are liquidated, with section 31 allowing regulations to be made about providers who have died.

The Welsh Ministers may make regulations to provide that it is an offence for an independent fostering services provider (section 45 of the 2016 Act) and for a responsible individual (section 46) to fail to comply with specified provisions.

These Regulations impose requirements on local authority fostering services providers and on independent fostering services providers, which together are referred to as “fostering services providers”.

Part 1 of these Regulations contains definitions of certain terms used in the Regulations.

Part 2 sets out the general requirements which apply to independent fostering services providers as to the way in which the service is provided, including requirements in relation to the statement of purpose, the arrangements for monitoring and improvement, and the making of notifications to the Welsh Ministers and other bodies. Schedule 1 sets out the specific notifications which are required to be made.

Part 2 also describes various requirements in relation to the designation of a responsible individual. Under section 6 of the 2016 Act, a

person who wants to provide an independent fostering service must make an application for registration to the Welsh Ministers in which a person is designated as the responsible individual.

Regulation 13 of Part 2 makes provision to ensure the financial sustainability of the service. Regulation 14(1) provides that a failure of an independent fostering services provider to comply with the requirements of specified provisions in these Regulations is an offence. In addition, where an independent fostering services provider fails to comply with certain other requirements, regulation 14(2) provides that this is also an offence if the failure to comply results in a child being exposed to avoidable harm or significant risk of such harm or suffering a loss of money or property as a result of theft, misuse or misappropriation.

Part 3 sets out steps to be taken by the personal representatives of the deceased in the event of the death of an independent fostering services provider who is an individual. It enables the personal representatives to act in the capacity of the provider and modifies the 2016 Act so that in these circumstances, the personal representatives are not required to register as provider, and one of the personal representatives can be designated as the responsible individual. Part 3 also specifies the responsibilities on the “appointed person” in the event of the insolvency of the independent fostering services provider.

Part 4 sets out the circumstances in which the Welsh Ministers (instead of an independent fostering services provider) may designate an individual to be a responsible individual., and

Part 5 of these Regulations outlines the general requirements which apply to local authority fostering services providers as to the way in which the service is provided, including requirements in relation to the statement of purpose and the arrangements for monitoring and improvement. The requirement to designate a responsible individual does not apply to local authority fostering services providers, who are instead required to appoint a manager to be responsible for the management of the service.

Part 6 of these Regulations sets out the general requirements which must be met by both local authority fostering services providers and independent fostering services providers.

These include overarching requirements as to the care and support to be provided as well as more

detailed requirements relating to the provision of information, meeting the language and communication needs of a child and treating children with respect and sensitivity. Part 6 also sets out the requirement to keep records in respect to fostering services and Schedule 3 sets out the specific records which must be kept.

Part 7 contains specific requirements in relation to ensuring children are safe and protected from abuse, neglect and improper treatment. As well as requiring policies and procedures to be in place in relation safeguarding and in relation to the appropriate use of control and restraint, the regulations in this Part place specific requirements as to the action to be taken in the event of an allegation or evidence of abuse. This Chapter also details other policies and procedures which must be in place, including those in relation to complaints and whistleblowing.

Part 8 sets out additional requirements to ensure children access health, education and other services. Part 9o ensures that premises, facilities and equipment to be used in relation to fostering services are suitable and safe.

Part 10 outlines the support and other assistance to be given to foster parents.

Part 11 contains requirements as to staffing, which include general requirements as to the deployment of sufficient numbers of staff and specific requirements as to the fitness of individuals working at the service. These requirements apply not just to employees but extend also to volunteers and to other persons working at the fostering service, which would include agency staff. The fitness requirements include a requirement for specific information and documents to be available in respect of persons working in fostering services, as set out in Schedule 4.

Other requirements contained in Part 11 include requirements relating to supporting and developing staff, providing information to staff and the operation of a suitable disciplinary procedure. To ensure that employees report incidents of abuse to an appropriate person, the regulations in this Chapter require the provider's disciplinary procedure to provide that a failure to report would itself be grounds for disciplinary proceedings. This Chapter also includes restrictions on persons who may not be employed by the fostering services provider in specified key roles.

Part 12 sets out requirements on responsible individuals which relate to the effective management of the service. The responsible individual has a general duty to supervise the management of the service (regulation 60) and specific duties to appoint a fit person to manage the service (regulations 62 and 63). The responsible individual must also put arrangements

in place for the management of the service when the manager is absent (regulation 66).

Part 12 also contains requirements on responsible individuals for ensuring the effective oversight of the service. By placing these requirements on the responsible individual, the regulations in this Part ensure that a person of an appropriately senior level in the organisation is accountable for service quality and compliance. The responsible individual is also required to make reports to the independent fostering services provider on the adequacy of resources (regulation 67) and on other matters (regulation 68). The responsible individual must make arrangements for engagement with children and others so that their views on the quality of care and support provided can be taken into account by the provider (regulation 71).

Part 12 also sets out the duty of the responsible individual for ensuring compliance with other requirements, including requirements as to the notification of incidents and complaints and the keeping of records. The responsible individual also has responsibilities in relation to monitoring and reviewing the quality of the service, and for making a report to the independent fostering services provider (regulation 72). The responsible individual must also ensure that the policies and procedures of the independent fostering services provider are kept up to date (regulation 74).

Part 13 describes the duties which must be carried out by the manager employed by the local authority fostering service. These include responsibilities relating to the oversight of the adequacy of resources, making reports to the local authority fostering services provider, ensuring that there are systems in place to record complaints and ensuring that policies and procedures are kept up to date.

Part 14 deals with the establishment and functions of fostering panels. It makes provision for the establishment of a central list of people who are considered suitable to sit on a fostering panel, from which fostering panel members may be drawn. It also sets out the functions of fostering panels, in particular, to consider applications for the approval of foster parents. It sets out the requirements for the assessment of prospective foster parents, including the information to be obtained and the checks to be carried out in relation to that person and members of their household and family, and the right of a person who is informed they are unlikely to be approved to (a) submit representations to the fostering services provider or (b) have their case reviewed by the independent review panel. Part 14 also requires the

fostering services provider to maintain case records in relation to each foster parent.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

DRAFT

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**The Fostering Services (Fostering
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Made

Coming into force

X April 2019

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The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 87, 92, 93, 94, 94A and 196(1) and (2) of the Social Services and Well-being (Wales) Act 2014⁽¹⁾ and section 21(5), 27, 28, 30, 31, 45, 46 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽²⁾ (“the 2016 Act”).

The Welsh Ministers have consulted such persons as they think appropriate, as required by section 27(4)(a) and 28(4) of the 2016 Act.

A draft of these Regulations was laid before the National Assembly for Wales under section 187(2)(f), (g), (j) and (k) of the 2016 Act and has been approved by a resolution of the National Assembly for Wales.

PART 1

General

Title and commencement

1.—(1) The title of these Regulations is the Fostering Services (Fostering Services Providers and Responsible Individuals) (Wales) Regulations 2019.

(2) These Regulations come into force on X April 2019.

(1) 2014 anaw 4.

(2) 2016 anaw 2

Interpretation

2.—(1) In these Regulations—

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014;

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the Care Planning, Placement and Case Review (Wales) Regulations 2015(1);

“the 2016 Act” (“*Deddf 2016*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the 2017 Registration Regulations” (“*Rheoliadau Cofrestru 2017*”) means the Regulated Services (Registration) (Wales) Regulations 2017(2);

“abuse” (“*camdriniaeth*”, “*cam-drin*”) means physical, sexual, psychological, emotional or financial abuse, and “financial abuse” (“*camdriniaeth ariannol*”) includes—

- (a) having money or other property stolen,
- (b) being defrauded,
- (c) being put under pressure in relation to money or other property, or
- (d) having money or other property misused;

“area authority” (“*awdurdod ardal*”) means the local authority or local authority in England for the area in which the child is placed, or is to be placed, where this is different from the placing authority;

“care and support” (“*XX*”) means—

- (a) care;
- (b) support;
- (c) both care and support(3);

“care and support plan” (“*cynllun gofal a chymorth*”) means a plan for the child made under section 83 of the 2014 Act;

“central list” (“*rhestr ganolog*”) means a list established in accordance with regulation 87;

“child” (“*plentyn*”) means a person who is aged under 18;

“child who is looked after by a local authority” (“*plentyn sy’n derbyn gofal gan awdurdod lleol*”) has the same meaning as in section 74 of the 2014 Act;

“the Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) and “DBS”

(1) S.I. 2015/1818 (W.261)

(2) S.I. 2017/1098 (W.278)

(3) See section 4 of the Social Services and Well-being (Wales) Act 2014 (anaw4).

“*GDG*”) mean the body formed by section 87(1) of the Protection of Freedoms Act 2012⁽¹⁾;

“employee” (“*cyflogai*”) has the same meanings as in section 230 of the Employment Rights Act 1996⁽²⁾;

“foster care agreement” (“*cytundeb gofal maeth*”) means the written agreement covering the matters specified in Schedule 8 which is entered into between the fostering services provider and the foster parent;

“foster parent” (“*rhiant maeth*”) means a person who has been approved as a foster parent—

- (a) in accordance with these Regulations, and
- (b) except in regulations 92 – 97, includes a person with whom a child is placed under regulation 26 of the 2015 Regulations (temporary approval of a relative, friend or other person connected with a child) or regulation 28 of those Regulations (temporary approval of a particular prospective adopter as a foster parent);

“fostering panel” (“*panel maethu*”) means a panel established in accordance with regulation 88;

“fostering service” (“*XX*”) means—

- (a) a local authority fostering service,
- (b) an independent fostering service;

“fostering services provider” (“*XX*”) means—

- (a) a local authority fostering services provider
- (b) an independent fostering services provider;

“general practitioner” (“*ymarferydd cyffredinol*”) means a registered medical practitioner⁽³⁾ who—

- (a) provides primary medical services under Part 4 of the National Health Service (Wales) Act 2006⁽⁴⁾, or
- (b) provides services which correspond to services provided under Part 4 of the National Health Service (Wales) Act 2006, otherwise than in pursuance of that Act;

“harm” (“*niwed*”) has the same meaning as in section 197(1) of the 2014 Act;

“improper treatment” (“*triniaeth amhriodol*”) means discrimination or unlawful restraint, including inappropriate deprivation of liberty

(1) 2012 c.9.

(2) 1996 c. 18.

(3) The definition of a “registered medical practitioner” in Schedule 1 to the Interpretation Act 1978 (c. 30) was substituted by S.I. 2002/3135, Schedule 1, paragraph 10 with effect from 16 November 2009.

(4) 2006 c. 42.

under the terms of the Mental Capacity Act 2005(1);

“independent fostering service” (“XX”) means any service provided in Wales by a person other than a local authority which consists of or includes the placement of children with foster parents or exercising functions in connection with such a placement;

“independent fostering services provider” (“*darparwr gwasanaethau maethu annibynnol*”) means a person registered under section 7 of the 2016 Act to provide a fostering service;

“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales;

“local authority fostering service” (“*gwasanaeth maethu awdurdod lleol*”) means any service provided in Wales by a local authority which consists of or includes the placement of children with foster parents or exercising functions in connection with such a placement;

“local authority fostering services provider” (“XX”) means the local authority providing the local authority fostering services;

“local authority in England” (“*awdurdod lleol yn Lloegr*”) means—

- (a) a county council in England,
- (b) a district council for an area in England for which there is no county council,
- (c) a London borough council, or
- (d) the Common Council of the City of London;

“local authority manager” (“XX”) means the person appointed by the local authority fostering services provider as manager under regulation 22;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(2);

“neglect” (“*esgeulustod*”) has the same meaning as in section 197(1) of the 2014 Act;

“parent” (“XX”), in relation to a child, includes any person who has parental responsibility for the child;

“personal outcomes” (“*canlyniadau personol*”) means—

- (a) the outcomes that the child wishes to achieve, or

(1) 2005 c. 9.

(2) 2006 c. 42.

(b) the outcomes that any persons with parental responsibility wish to achieve in relation to the child;

“placement” (*“lleoliad”*) means the placement of a child with a foster parent under section 81(5), (6)(a) and (b) of the 2014 Act;

“placing authority” (*“awdurdod lleoli”*) means in relation to a child who is looked after by a local authority or local authority in England, that local authority;

“reasonable adjustments” (*“addasiadau rhesymol”*) means such reasonable adjustments as would be required under the Equality Act 2010⁽¹⁾;

“registered provider” (“XX”) means a person registered under section 7 of the 2016 Act to provide a regulated fostering service;

“responsible individual” (*“unigolyn cyfrifol”*) means an individual appointed by an independent fostering services provider when making an application to register under section 6 of the 2016 Act;

“social worker” (“XX”) means a person who is registered as a social worker in the register maintained by Social Care Wales under section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016, in Part 16 of the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001⁽²⁾ or in a corresponding register maintained under the law of Scotland or Northern Ireland;

“statement of purpose” (*“datganiad o ddiben”*) means—

- (a) in the case of an independent fostering services provider, the document containing the information which must be provided in accordance with regulation 3(c) of and Schedule 2 to the 2017 Registration Regulations for the place from which the service is provided⁽³⁾, and
- (b) in the case of a local authority fostering services provider, the information which must be provided in accordance with Schedule 2 to these Regulations for the place from which the service is provided;

“staff” (*“staff”*) includes—

(1) 2010 c. 15.

(2) S.I. 2002/254.

(3) Regulation 3(c) of the Regulated Services (Registration) (Wales) Regulations 2017 (S.I. 2017/1098. (W.278)) requires a person who wants to provide a fostering service to provide a statement of purpose for each place from which the service is to be provided.

- (a) persons employed by the fostering services provider to work at the service as an employee or a worker, and
- (b) persons engaged by the fostering services provider under a contract for services,

but does not include persons who are allowed to work as volunteers;

“Welsh Ministers” (“XX ”) means the Welsh Ministers in the exercise of their regulatory functions⁽¹⁾, unless the context otherwise requires;

“worker” (“*gweithiwr*”) has the same meanings as in section 230 of the Employment Rights Act 1996⁽²⁾.

PART 2

General requirements for independent fostering services providers

Requirements in relation to the provision of the independent fostering service

3. The independent fostering services provider must ensure that the service is provided with sufficient care, competence and skill, having regard to the statement of purpose.

Requirements in relation to the statement of purpose

4.—(1) The independent fostering services provider must provide the service in accordance with the statement of purpose.

(2) The independent fostering services provider must—

- (a) keep the statement of purpose under review, and
- (b) where appropriate, revise the statement of purpose.

(3) The independent fostering services provider must give notice to the persons listed in paragraph (4) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

(4) The persons who must be given notice of any revision to the statement of purpose in accordance with paragraph (3) are—

- (a) the Welsh Ministers,

(1) “Regulatory functions” is defined in section 3(1)(b) of the 2016 Act.

(2) 1996 c.18.

- (b) any child placed by the independent fostering services provider, unless it would not be appropriate to do so having regard to the child's age and understanding,
- (c) the parents of any such child,
- (d) foster parents and prospective foster parents,
- (e) persons working for the purposes of the independent fostering service,
- (f) the placing authority.

(5) The independent fostering services provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of a child.

Requirement to ensure suitability of the service

5.—(1) The independent fostering services provider must not agree to place a child unless the provider has determined that there is a suitable placement which can meet the child's needs for care and support and enable the child to achieve their personal outcomes.

(2) The independent fostering services provider must have in place a policy and procedures on placements and commencement of the service.

(3) The determination under paragraph (1) must take into account—

- (a) the child's care and support plan,
- (b) any health or other relevant assessments,
- (c) the child's views, wishes and feelings,
- (d) any risks to the child's well-being,
- (e) any risks to the well-being of any other child who may be affected by the placement to be made,
- (f) the child's religious persuasion, racial origin, cultural and linguistic background, sexual orientation and gender identity,
- (g) any reasonable adjustments which the independent fostering services provider could make to enable the child's care and support needs to be met,
- (h) the independent fostering services provider's policy and procedures on placements and commencement of the service.

(4) In making the determination in paragraph (1), the independent fostering services provider must involve—

- (a) the child,
- (b) the child's parents, unless this is inappropriate or inconsistent with the child's well-being,
- (c) the placing authority.

Continuing suitability of the placement

6. If, as a result of a change in the child's assessed needs, the placement made by the independent fostering services provider is no longer suitable to the meet the child's needs for care and support, even after any reasonable adjustments have been made, the provider must immediately give written notice of this to the placing authority.

Requirements in relation to monitoring and improvement

7.—(1) The independent fostering services provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of the service.

(2) The arrangements must include arrangements for seeking the views of—

- (a) any child placed by the independent fostering services provider,
- (b) the parents of any such child, unless this is inappropriate or inconsistent with the child's well-being,
- (c) foster parents,
- (d) persons working for the purposes of the independent fostering service,
- (e) the placing authority, and
- (f) in the case of a child who is placed with an area authority, that area authority

on the quality of the service and how this can be improved.

(3) When making any decisions on plans for improvement of the quality of the service, an independent fostering service provider must—

- (a) take into account the views of those consulted in accordance with paragraph (2), and
- (b) have regard to the report prepared by the responsible individual in accordance with regulation 72(4) (quality review).

Notifications

8.—(1) The independent fostering services provider must notify the Welsh Ministers of the events specified in Part 1 of Schedule 1.

(2) The independent fostering services provider must notify the placing authority of the events specified in Part 2 of Schedule 1.

(3) The independent fostering services provider must notify the area authority of the events specified in Part 3 of Schedule 1.

(4) The independent fostering services provider must notify the local health board in whose area the child is placed of the events specified in Part 4 of Schedule 1.

(5) The independent fostering services provider must notify the police of the events specified in Part 5 of Schedule 3.

(6) The notifications required by paragraph (1) must include details of the event.

(7) Unless otherwise stated, notifications must be made without delay and in writing.

(8) Notifications must be made in such manner and in such form as may be required by the Welsh Ministers.

Duty of candour

9. The independent fostering services provider must act in an open and transparent way with—

- (a) any child placed by the independent fostering services provider,
- (b) the parents of any such child,
- (c) foster parents and prospective foster parents,
- (d) the placing authority,
- (e) in the case of a child who is placed with an area authority, that area authority.

Compliance with code of practice

10. The independent fostering services provider must adhere to the code of practice on the standards of conduct and practice expected of persons employing or seeking to employ social care workers, which is required to be published by Social Care Wales under section 112(1)(b) of the 2016 Act.

Requirements in relation to the responsible individual

11.—(1) This regulation does not apply to an independent fostering services provider who is an individual.

(2) An independent fostering services provider to whom this regulation applies must ensure that the person who is designated as the responsible individual⁽¹⁾—

- (a) is supported to carry out their duties effectively, and
- (b) undertakes appropriate training.

(1) Section 6 of the 2016 Act requires a person who wants to provide a regulated service to make an application for registration to the Welsh Ministers designating an individual as the responsible individual.

(3) The independent fostering services provider must ensure that the responsible individual complies with the requirements imposed by Part 12 (duties of responsible individuals) of these Regulations.

(4) In the event that the independent fostering services provider has reason to believe that the responsible individual has not complied with a requirement imposed by the regulations in Part 5, the provider must—

- (a) take such action as is necessary to ensure that the requirement is complied with, and
- (b) inform the Welsh Ministers.

(5) During any time when the responsible individual is unable to fulfil their duties, the independent fostering services provider must ensure that there are arrangements in place for—

- (a) the effective management of the service,
- (b) the effective oversight of the service, and
- (c) the compliance of the service with the requirements of these Regulations.

(6) If the responsible individual is unable to fulfil their duties for a period of more than 28 days, the independent fostering services provider must—

- (a) inform the Welsh Ministers, and
- (b) give the Welsh Ministers full details of the interim arrangements.

Requirements in relation to the responsible individual where the provider is an individual

12.—(1) This regulation applies where the provider of an independent fostering service is an individual.

(2) If this regulation applies, the individual must undertake appropriate training for the proper discharge of their duties as the responsible individual.

(3) During any time when the individual is absent, they must ensure that there are arrangements in place for—

- (a) the effective management of the service,
- (b) the effective oversight of the service,
- (c) the compliance of the service with the requirements of these Regulations.

(4) If the individual is unable to fulfil their duties as a responsible individual for a period of more than 28 days, they must—

- (a) inform the Welsh Ministers, and
- (b) give the Welsh Ministers full details of the interim arrangements.

Requirements in relation to the financial sustainability of the independent fostering service

13.—(1) The independent fostering services provider must take reasonable steps to ensure that the service is financially sustainable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The independent fostering services provider must maintain appropriate and up to date accounts for the service.

(3) The independent fostering services provider must provide copies of the accounts to the Welsh Ministers within 28 days of being requested to do so.

(4) The Welsh Ministers may require the accounts to be certified by an accountant.

Failure by an independent fostering services provider to comply with the regulations

14.—(1) It is an offence for an independent fostering services provider to fail to comply with a requirement of any of the provisions specified in paragraph (2)(1).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations—

- (a) 4(3) (requirements in relation to the statement of purpose),
- (b) 4(4) (requirements in relation to the statement of purpose),
- (c) 8(1), (2), (3), (4), (5) (notifications),
- (d) 8(6) (notifications),
- (e) 13(3) (requirements in relation to financial sustainability of the service),
- (f) 27(1) (information about the service),
- (g) 27(2) (information about the service),
- (h) 27(3) (information about the service),
- (i) 34(1) (records with respect to fostering services),
- (j) 34(2) (records with respect to fostering services),
- (k) 35(1) (requirements to provide the service in accordance with policies and procedures),
- (l) 37 (policies on bullying and absconding),
- (m) 54(1) (fitness of staff),
- (n) 57(1) (information for staff).

(3) The Welsh Ministers may bring proceedings against a person who was once, but no longer is, registered as an independent fostering services provider, in respect of a failure to comply with

(1) For penalties upon conviction for an offence under this regulation, see section 51(1) of the 2016 Act.

regulation 35 (records with respect to fostering services) after they have ceased to be so registered.

(4) An independent fostering services provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (5) and such failure results in—

- (a) avoidable harm (whether of a physical or psychological nature) to a child,
- (b) a child being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by a child of the money or property concerned.

(5) The provisions specified for the purposes of paragraph (4) are the provisions of regulations—

- (a) 3 (requirements in relation to the provision of the independent fostering service),
- (b) 4(1) (requirements in relation to the statement of purpose),
- (c) 5(1) (requirement to ensure suitability of the service),
- (d) 5(3) (requirement to ensure suitability of the service),
- (e) 26 (safeguarding),
- (f) 31 (standards of care and support for children),
- (g) 35(5) (requirements to provide the service in accordance with policies and procedures),
- (h) 44(2) (health of children placed with foster parents),
- (i) 53 (staffing – overarching requirements).

PART 3

Independent fostering services providers who have died or are liquidated

Death of independent fostering services provider

15.—(1) Where an independent fostering services provider who is an individual has died, the personal representatives of the individual must—

- (a) without delay, give written notice of the death to the Welsh Ministers, and
- (b) within 28 days of the death, notify the Welsh Ministers of their intentions regarding the future operation of the service.

(2) The personal representatives of the individual may act in the capacity of the independent fostering services provider for a period not exceeding 28 days or

for such longer period (not exceeding one year) as the Welsh Ministers may agree.

(3) Where the personal representatives are acting in the capacity of the independent fostering services provider in accordance with paragraph (2), Part 1 of the 2016 Act applies with the following modifications—

- (a) section 5 (requirement to register) does not apply;
- (b) section 21(2) (responsible individuals) is to be read as if after paragraph (a), there is inserted—

“(aa) where the personal representatives of an independent fostering services provider who has died are acting in the capacity of the fostering services provider, be one of the personal representatives;”.

(4) In this regulation, “the service” (“XX”) means the independent fostering service which the individual provider who has died was registered to provide at the time of their death.

Appointment of liquidators etc.

16.—(1) An appointed person must—

- (a) without delay, give written notice to the Welsh Ministers of their appointment and the reasons for their appointment;
- (b) within 28 days of their appointment, inform the Welsh Ministers of their intentions regarding the future operation of the independent fostering service.

(2) In this regulation “appointed person” (“*person a benodir*”) has the same meaning as in section 30 of the 2016 Act.

PART 4

Regulations under section 21(5) of the 2016 Act

Designation of responsible individual by Welsh Ministers

17. The Welsh Ministers (instead of an independent fostering services provider) may designate an individual to be a responsible individual, despite the requirements of section 21(2) of the 2016 Act not being met in respect of the individual, in the following circumstances—

- (a) the independent fostering services provider is an individual who has died and the personal representatives of the provider have informed the Welsh Ministers that they do not intend to make an application under section 11(1)(c) of the 2016 Act;
- (b) the independent fostering services provider is an individual and they have informed the Welsh Ministers—
 - (i) that they are no longer able to comply with their duties as a responsible individual, and
 - (ii) the reasons for this being the case;
- (c) the independent fostering services provider is a corporate body or partnership and they have informed the Welsh Ministers—
 - (i) that the individual designated by the independent fostering services provider as the responsible individual is no longer able to comply with their duties as a responsible individual,
 - (ii) the reasons for this being the case, and
 - (iii) that there is no other individual who is eligible to be a responsible individual and who is able to comply with the duties of a responsible individual.

PART 5

General requirements for local authority fostering services providers

Requirements in relation to the provision of the local authority fostering service

18. The local authority fostering services provider must ensure that the service is provided with sufficient care, competence and skill, having regard to the statement of purpose.

Content of statement of purpose

19. The local authority fostering services provider must prepare a statement of purpose which contains the information listed in Schedule 2.

Requirements in relation to statement of purpose

20.—(1) The local authority fostering services provider must provide the service in accordance with the statement of purpose.

(2) The local authority fostering services provider must—

- (a) keep the statement of purpose under review, and
 - (b) where appropriate, revise the statement of purpose.
- (3) The local authority fostering services provider must give notice to the persons listed in paragraph (4) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.
- (4) The persons who must be given notice of any revision to the statement of purpose in accordance with paragraph (3) are—
- (a) the Welsh Ministers,
 - (b) any child placed by the local authority fostering services provider, unless it would not be appropriate to do so having regard to the child's age and understanding,
 - (c) the parents of any such child,
 - (d) foster parents or prospective foster parents,
 - (e) persons working for the purposes of the local authority fostering service.
- (5) The local authority fostering services provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of a child.

Requirements in relation to monitoring and improvement

21.—(1) The local authority fostering services provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of the service.

(2) Those arrangements must include arrangements for seeking the views of—

- (a) any child placed by the local authority fostering services provider,
- (b) the parents of any such child, unless this is inappropriate or inconsistent with the child's well-being,
- (c) foster parents, and
- (d) persons working for the purposes of the local authority fostering service

on the quality of the service.

(3) When making any decisions on plans for improvement of the quality of the service, the local authority fostering services provider must take into account the views of those persons consulted in accordance with paragraph (2).

Requirements in relation to the local authority manager

22.—(1) Each local authority fostering services provider must appoint one of its officers to be responsible for the management of the service.

(2) The local authority fostering services provider must immediately give notice in writing to the Welsh Ministers—

- (a) of the name of the person appointed as manager,
- (b) of the date on which the appointment is to take effect,
- (c) if the person appointed as manager ceases to manage the local authority fostering service.

Fitness requirements for appointment of manager

23.—(1) The local authority fostering services provider must not appoint a person to manage the service unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 54(2) (fitness of staff) are met in respect of that person.

Requirements in relation to the manager

24.—(1) A local authority fostering services provider must ensure that the person who is appointed as the manager—

- (a) is supported to carry out their duties effectively, and
- (b) undertakes appropriate training.

(2) The local authority fostering services provider must ensure that the manager complies with the requirements of Part 13 (duties to be carried out by the local authority fostering services manager) of these Regulations.

(3) In the event that the local authority fostering services provider has reason to believe that the manager has not complied with a requirement imposed by the regulations in Part 13, the provider must take such action as is necessary to ensure that the requirement is complied with.

(4) The local authority fostering services provider must put suitable arrangements in place to ensure that the service is managed effectively at any time when there is no manager appointed or when the manager is absent from the service.

PART 6

General requirements on independent fostering services providers and local authority fostering services providers

Compliance with foster care agreement

25. The fostering services provider must monitor the foster parents' compliance with the requirements of the foster care agreement, as set out at Schedule 8.

Safeguarding

26. The fostering services provider must put arrangements in place to ensure that children placed by it are safe and are protected from abuse, neglect and improper treatment.

Information about the service etc.

27.—(1) The fostering services provider must prepare a written guide to the service.

(2) The guide must be—

- (a) dated, reviewed at least annually and updated as necessary,
- (b) in a language, style, presentation and format which is appropriate for both children of all ages and adults,
- (c) made available to—
 - (i) any child placed by the provider,
 - (ii) any foster parents and prospective foster parents,
 - (iii) the placing authority, and
 - (iv) to others on request, unless this is not appropriate or would be inconsistent with the well-being of an individual.

(3) The guide must contain the following information—

- (a) information about how to raise a concern or make a complaint,
- (b) information about the availability of independent advocacy services for children who are looked after by a local authority,
- (c) information about the role and contact details for the Children's Commissioner for Wales.

(4) The fostering services provider must ensure that children receive such support as is necessary to enable them to understand the information contained in the guide.

Information for children

28.—(1) The fostering services provider must put arrangements in place to ensure that children have the information they need to make and participate in day to day decisions about the way care and support is provided to them and how they are supported to achieve their personal outcomes.

(2) Information provided must be available in an appropriate language, style, presentation and format for children of all ages.

(3) The fostering services provider must put arrangements in place to ensure that children receive such support as is necessary to enable them to understand the information provided.

Language and communication

29.—(1) The fostering services provider must ensure that the language needs of children are met.

(2) The fostering services provider must ensure that children are provided with access to such aids and equipment as may be necessary to facilitate the child's communication with others.

Respect and sensitivity

30.—(1) The fostering services provider must put arrangements in place to ensure that children placed by the provider are treated with respect and sensitivity.

(2) This includes, but is not limited to—

- (a) respecting the child's privacy and dignity,
- (b) respecting the child's rights to confidentiality,
- (c) promoting the child's autonomy and independence, and
- (d) having regard to any relevant protected characteristics (as defined in section 4 of the Equality Act 2010⁽¹⁾) of the child.

Standards of care and support to children

31. The fostering services provider must ensure that foster parents give care and support to a child placed with them—

- (a) in accordance with the child's care and support plan,
- (b) in a way which maintains, protects and promotes the safety and well-being of the child, and
- (c) in a way which encourages, assists and maintains good personal and professional

(1) 2010 c. 15.

relationships between the child and the foster parent.

Duty to promote contact

32. The fostering services provider must ensure foster parents promote contact between a child placed with them and the child's parents, relatives and friends, in accordance with the child's care and support plan and any court order relating to contact.

Conflicts of interest

33. The fostering services provider must have effective arrangements in place to identify, record and manage conflicts of interest.

Records with respect to fostering services

34.—(1) The fostering services provider must maintain the records specified in Schedule 3 for 15 years.

- (2) The fostering services provider must—
- (a) ensure that the records specified in Schedule 3 are accurate and up to date,
 - (b) keep all records securely,
 - (c) make arrangements for the records to continue to be kept securely in the event the service closes,
 - (d) make the records available to the Welsh Ministers on request,
 - (e) in the case of an independent fostering services provider, ensure that the records are delivered to the placing authority when the service ceases to be provided in respect of the child to whom the records relate,
 - (f) ensure that children who use the service—
 - (i) are made aware of their rights to access their records, and
 - (ii) have such access to their records as is permitted by law.

PART 7

Policies, procedures and other standards - independent fostering services providers and local authority fostering services providers

Requirement to provide the service in accordance with policies and procedures

35.—(1) The fostering services provider must ensure that the following policies and procedures are in place for the service—

- (a) placement and commencement of the service (see regulation 5 (requirement to ensure suitability of the service)),
- (b) safeguarding policies and procedures (see regulation 36),
- (c) bullying and absconding (see regulation 38),
- (d) appropriate use of control or restraint (see regulation 39),
- (e) deprivation of liberty (see regulation 40),
- (f) complaints (see regulation 41),
- (g) whistleblowing (see regulation 42),
- (h) medication (see regulation 44 (health of children placed with foster parents)),
- (i) support for foster parents on how to help children manage their money (see regulation 52),
- (j) supporting and developing staff (see regulation 56),
- (k) staff discipline (see regulation 58).

(2) The fostering services provider must also have such other policies and procedures in place as are reasonably necessary to support the aims and objectives of the service set out in the statement of purpose.

(3) The fostering services provider must ensure that the content of the policies and procedures which are required to be in place by virtue of paragraphs (1) and (2) is —

- (a) in an appropriate language, style, presentation and format for children of all ages and adults,
- (b) appropriate to the needs of children for whom care and support is provided,
- (c) consistent with the statement of purpose, and
- (d) kept up to date.

(4) The fostering services provider must ensure that the content of the policies and procedures which are required to be in place under paragraph (1)(a), (b), (c) and (f) takes into account the needs of any other

children who may be affected by the placement being made.

(5) The fostering services provider must ensure that the service is provided in accordance with those policies and procedures.

Policies and procedures on safeguarding

36.—(1) The fostering services provider must have policies and procedures in place—

- (a) for the prevention of abuse, neglect and improper treatment, and
- (b) for responding to any allegation or evidence of abuse, neglect or improper treatment.

(2) In this regulation, such policies and procedures are referred to as safeguarding policies and procedures.

(3) The fostering services provider must ensure that their safeguarding policies and procedures are operated effectively.

(4) In particular, where there is an allegation or evidence of abuse, neglect or improper treatment, the fostering services provider must—

- (a) act in accordance with their safeguarding policies and procedures,
- (b) take immediate action to ensure the safety of all children for whom care and support is provided,
- (c) make appropriate referrals to other agencies, and
- (d) keep a record of any evidence or the substance of any allegation, any action taken and any referrals made.

Policies and procedures on bullying and absconding

37. The fostering services provider must also have the following policies and procedures in place—

- (a) a policy on the prevention of bullying,
- (b) procedures for dealing with an allegation of bullying, and
- (c) the procedure to be followed when any child placed with foster parents by the provider is absent without permission.

Policies and procedures on the appropriate use of control and restraint

38.—(1) The fostering services provider must have a policy and procedures in place on the use of control or restraint.

(2) The policy and procedures must prohibit care and support being provided in a way which includes acts

intended to control or restrain a child unless those acts—

- (a) are necessary to prevent a risk of harm posed to the child or other persons or likely serious damage to property, and
- (b) are a proportionate response to such a risk.

(3) The policy and procedures must require a foster parent to be trained in any methods of control or restraint to be used.

(4) The policy and procedures must require a record to be made within 24 hours of any incident in which control or restraint is used.

(5) The fostering services provider must ensure that any control or restraint used by foster parents is carried out in accordance with these policies and procedures.

(6) For the purposes of this regulation, a person controls or restrains a child if that person—

- (a) uses, or threatens to use, force to secure the doing of an act which the child resists, or
- (b) restricts the child's liberty of movement, whether or not the child resists, including by the use of physical, mechanical or chemical means.

Prohibition on the use of corporal punishment

39. The fostering services provider must ensure that foster parents do not use any form of corporal punishment at any time against any child.

Deprivation of liberty

40. An individual must not be deprived of their liberty for the purpose of receiving care and support without lawful authority.

Policies and procedures and complaints

41.—(1) The fostering services provider must have a complaints policy in place and ensure that the service is operated in accordance with that policy.

(2) The fostering services provider must ensure that the following persons are aware of the existence of the complaints policy and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to—

- (a) any child placed by the provider,
- (b) the parents of any such child,
- (c) foster parents and prospective foster parents, and
- (d) in the case of an independent fostering services provider, the local authority of any child placed by it.

(3) The fostering services provider must ensure that the persons working for the fostering service are informed about, given a copy of and appropriately trained in the operation of the complaints policy.

(4) The complaints policy must include procedures for considering complaints made to the fostering services provider by or on behalf of children placed by the provider about—

- (a) the provider,
- (b) foster parents, and
- (c) any other matter considered by the provider to be relevant.

(5) The complaints policy must include procedures for considering complaints made to the fostering services provider by foster parents about—

- (a) the provider, and
- (b) any other matter considered by the provider to be relevant.

(6) The complaints policy must include procedures for considering complaints made to the fostering services provider by the parents of any child placed by the provider about—

- (a) the provider, and
- (b) any other matter considered by the provider to be relevant.

(7) The complaints procedure must include—

- (a) the name, address and telephone number of the Welsh Ministers, and
- (b) information about the assistance available to complainants, including assistance on how to access advocacy services.

(8) The fostering services provider must put effective arrangements in place for dealing with complaints including arrangements for—

- (a) identifying and investigating complaints,
- (b) ensuring that appropriate action is taken following an investigation, and
- (c) keeping records relating to the matters in subparagraphs (a) to (b).

(9) The fostering services provider must provide a summary of complaints, responses and any subsequent action taken to the Welsh Ministers within 28 days of being requested to do so.

(10) The fostering services provider must—

- (a) analyse information relating to complains and concerns; and
- (b) having regard to that analysis, identify any areas for improvement.

Whistleblowing

42.—(1) The fostering services provider must ensure that all persons working at the service (including any person allowed to work as a volunteer), foster parents (including prospective foster parents) and children placed by the provider are able to raise concerns about the service.

(2) These arrangements must include—

- (a) having a whistleblowing policy in place and acting in accordance with that policy,
- (b) establishing arrangements to enable and support people working at the service to raise such concerns,
- (c) establishing arrangements to enable and support foster parents and prospective foster parents to raise such concerns, and
- (d) establishing arrangements to enable and support children who have been placed by the provider to raise such concerns.

(3) The fostering services provider must ensure that the arrangements required under this regulation are operated effectively.

(4) When a concern is raised, the fostering services provider must ensure that—

- (a) the concern is investigated,
- (b) appropriate steps are taken following an investigation, and
- (c) a record is kept relating to the matters in subparagraphs (a) to (b).

Compliance with policies and procedures by foster parents

43. The fostering services provider must ensure that foster parents are familiar with, and are required to act in accordance with, the policies and procedures established in accordance with these Regulations.

PART 8

Health and education - independent fostering services providers and local authority fostering services providers

Health of children placed with foster parents

44.—(1) The fostering services provider must ensure that foster parents promote the health and development of children placed with them.

(2) In particular, the fostering services provider must ensure that foster parents—

- (a) register each child with a general practitioner,
- (b) provide each child with access to such medical, dental, nursing, psychological and psychiatric advice, treatment and services as the child may require,
- (c) provide each child with such individual support, aids and equipment which the child may require as a result of any particular health needs or disability they may have, and
- (d) provide each child with guidance, support and advice on health, personal care and health promotion issues appropriate to the child's needs and wishes.

(3) The fostering services provider must have a policy and procedures in place in relation to the administration of medicines by foster parents.

Education, employment and leisure activities

45.—(1) The fostering services provider must ensure that the educational attainment of children placed with foster parents is promoted.

(2) In particular the fostering services provider must—

- (a) establish a procedure for monitoring the educational attainment, progress and school attendance of children placed with foster parents,
- (b) in relation to school aged children placed with foster parents, ensure foster parents promote the children's regular attendance at school and participation in school activities, and
- (c) provide foster parents with such information and assistance, including equipment, as may be necessary to meet the educational needs of children placed with them.

(3) The fostering services provider must ensure that foster parents promote the leisure interests of children placed with them.

(4) Where any child placed with foster parents has attained the age where they are no longer required to receive compulsory full-time education, the fostering services provider must assist with the making of, and give effect to, the arrangements made for the child in respect of their education, training and employment.

PART 9

Premises and equipment - independent fostering services providers and local authority fostering services providers

Premises, facilities and equipment - fostering services providers

46. The fostering services provider must ensure that the premises, facilities and equipment used for the operation of the service are suitable, having regard to the statement of purpose for the service.

Adequacy of premises

47. The fostering services provider must ensure that the premises used for the operation of the service have adequate facilities for—

- (a) the supervision of staff, and
- (b) the secure storage of records.

Premises, facilities and equipment - foster parents

48. --(1) The fostering services provider must have arrangements in place to ensure that the premises, facilities and equipment used by foster parents for the provision of care and support to children are—

- (a) suitable and safe for the purpose for which they are intended to be used,
- (b) used in a safe way,
- (c) properly maintained, and
- (d) kept clean to a standard which is appropriate for the purpose for which they are being used.

(2) The fostering services provider must ensure that foster parents are properly trained on how to operate any equipment that they may use when providing care and support to a child.

PART 10

Support for foster parents - independent fostering services providers and local authority fostering services providers

Support, training and information for foster parents

49.—(1) The fostering services provider must ensure that foster parents have the information they need to provide care and support to a child placed with them in accordance with the child's care and support plan.

(2) The fostering services provider must ensure foster parents receive such training, advice and support, including support outside office hours, as appears necessary in the interests of children placed with the foster parents and to enable them to provide care and support to the child in accordance with the child's care and support plan.

(3) The fostering services provider must ensure prospective foster parents receive such training, information and advice as is considered necessary.

(4) The fostering services provider must monitor and review the information, training, advice and support provided to foster parents and prospective foster parents and make any improvements which may be necessary.

Supervision

50. The fostering services provider must ensure that foster parents are appropriately supervised.

Effective working relationships

51. The fostering services provider must—

- (a) maintain good professional relationships with foster parents; and
- (b) encourage and assist foster parents to maintain good personal relationships with children placed with them.

Supporting children to manage their money

52.—(1) The fostering services provider must have a policy and procedures in place to enable foster parents to provide support and assistance to children on how to manage their money.

(2) The policy and procedures which are required by this regulation to be in place must set out the steps which are to be taken by foster parents to enable and support children to manage their own money and to protect children from financial abuse.

(3) Where a child's money is held by the foster parents for any purpose, the policy and procedures required by this regulation must provide that the money is held in an account in the child's name or in an account which enables clear demarcation of the child's money.

PART 11

Staffing - independent fostering services providers and local authority fostering services providers

Staffing - overarching requirements

53. The fostering services provider must ensure that at all times a sufficient number of suitably qualified, trained, skilled, competent and experienced staff are deployed to work at the service, having regard to—

- (a) the statement of purpose for the service,
- (b) the care and support needs of children,
- (c) the need to support children to achieve their personal outcomes,
- (d) the need to safeguard and promote the health and welfare of children, and
- (e) the requirements of these Regulations.

Fitness of staff

54.—(1) The fostering services provider must not—

- (a) employ a person under a contract of employment to work at the service unless that person is fit to do so,
- (b) allow a volunteer to work at the service unless that person is fit to do so, or
- (c) allow any other person to work at the service in a position in which they may in the course of their duties have regular contact with children who are receiving care and support unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—

- (a) the person is of suitable integrity and good character,
- (b) the person has the qualifications, skills, competence and experience necessary for the work they are to perform,
- (c) the person is able by reason of their health, after reasonable adjustments are made, of properly performing the tasks which are intrinsic to their role,
- (d) the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters specified in Part 1 of Schedule 4, and this information or documentation is available at the service for inspection by the Welsh Ministers, and

- (e) where the person is employed by the fostering services provider to manage the service, the person is registered as a social care manager with Social Care Wales.

(3) The certificate referred to in paragraphs 2 and 3 of Part 1 of Schedule 4 (referred to in this regulation as a DBS certificate) must be applied for by, or on behalf of, the fostering services provider, for the purpose of assessing the suitability of a person for the post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as the DBS update service).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the fostering services provider must check the person's DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the fostering services provider must check the person's DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the fostering services provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in accordance with paragraph (3) and thereafter further such applications must be made at least every three years.

(7) If any person working at the fostering service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the fostering services provider must—

- (a) take necessary and proportionate action to safeguard children, and
- (b) where appropriate, inform—
 - (i) Social Care Wales,
 - (ii) the Disclosure and Barring Service.

Restrictions on employment

55.—(1) The fostering services provider must not employ to work for the purposes of the fostering service in a position to which paragraph (2) applies, a person who is—

- (a) a foster parent approved by the fostering service, or
- (b) a member of the household of such a foster parent.

(2) This paragraph applies to any management, social work or other professional position, unless in the case of a position which is not a management or a social work position, the work is undertaken on an occasional basis, as a volunteer, or for no more than 5 hours in any week.

Supporting and developing staff

56.—(1) The fostering services provider must have a policy in place for the support and development of staff.

(2) The fostering services provider must ensure that any person working at the service (including a person allowed to work as a volunteer)—

- (a) receives an induction appropriate to their role,
- (b) is made aware of their own responsibilities and those of other staff,
- (c) is required to satisfactorily complete a period of probation,
- (d) receives appropriate supervision and appraisal,
- (e) receives core training appropriate to the work to be performed by them,
- (f) receives specialist training as appropriate, and
- (g) receives support and assistance to obtain such further training as is appropriate to the work they perform.

(3) The fostering services provider must ensure that any person employed to work at the service as a manager is supported to maintain their registration with Social Care Wales.

Information for staff

57.—(1) The fostering services provider must ensure that all persons working at the service (including any person allowed to work as a volunteer) are provided with information about the service and the way it is provided.

(2) The fostering services provider must ensure that there are arrangements in place to make staff aware of any codes of practice about the standards of conduct expected of social care workers which are required to be published by Social Care Wales under section 112(1)(a) of the Act.

Disciplinary procedures

58.—(1) The fostering services provider must put in place and operate a disciplinary procedure.

(2) The disciplinary procedure must include—

- (a) provision for the suspension, and the taking of action short of suspension, of employees in the interests of the safety or well-being of children using the service, and
 - (b) provision that a failure on the part of an employee to report an incident of abuse, or suspected abuse, to an appropriate person, is grounds on which disciplinary proceedings may be instituted.
- (3) For the purpose of paragraph (2)(b), an appropriate person is—
- (a) an officer of the Welsh Ministers,
 - (b) the fostering services provider,
 - (c) the responsible individual,
 - (d) an officer of the local authority,
 - (e) in the case of an incident of abuse or suspected abuse of a child, an officer of the National Society for the Prevention of Cruelty to Children,
 - (f) a police officer,
- as the case may be.

PART 12

Duties of Responsible Individuals

Compliance with regulations

59. The responsible individual must comply with the requirements imposed by this Part 12 of these Regulations.

Supervision of management of the service

60. The responsible individual must supervise the management of the service.

Visits

61.-- (1) The responsible individual must—

- (a) visit the premises from which the service is provided,
 - (b) meet with members of staff who are employed by the independent fostering services provider from each place in respect of which the responsible individual is designated, and
 - (c) meet with the children who have been placed by the independent fostering services provider and their foster parents.
- (2) The frequency of such visits and meetings is to be determined by the responsible individual, having regard to the statement of purpose, but

these must take place at least every three months.

Duty to appoint a manager

62.—(1) The responsible individual must appoint a person to manage the service. But this requirement does not apply if the conditions in paragraph (2) or (3) apply.

(2) Where the independent fostering services provider is an individual, the conditions are—

- (a) the independent fostering services provider proposes to manage the service,
- (b) the independent fostering services provider is fit to manage the service,
- (c) the independent fostering services provider is registered as a manager with Social Care Wales, and
- (d) the Welsh Ministers agree to the independent fostering services provider managing the service.

(3) Where the independent fostering services provider is a partnership, body corporate or unincorporated body, the conditions are—

- (a) the independent fostering services provider proposes that the individual designated as the responsible individual for the service is to be appointed to manage the service,
- (b) that individual is fit to manage the service,
- (c) that individual is registered as a manager with Social Care Wales, and
- (d) the Welsh Ministers agree to that individual managing the service.

(4) For the purposes of paragraph (2)(b), the independent fostering services provider is not fit to manage the service unless the requirements of regulation 54(2) (fitness of staff) are met in respect of the independent fostering services provider.

(5) The duty in paragraph (1) is not discharged if the person appointed to manage the service is absent for a period of more than three months.

Fitness requirements for appointment of manager

63.—(1) The responsible individual must not appoint a person to manage the service unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 54(2) (fitness of staff) are met in respect of that person.

Restrictions on appointing a manager for more than one service

64.—(1) The responsible individual must not appoint a person to manage more than one service, unless paragraph (2) applies.

(2) This paragraph applies if—

- (a) the independent fostering services provider has applied to the Welsh Ministers for permission to appoint a manager for more than one service, and
- (b) the Welsh Ministers are satisfied that the proposed management arrangements—
 - (i) will not have an adverse impact on the care and support provided to children, and
 - (ii) will provide reliable and effective oversight of each service.

Duty to report the appointment of manager

65.—(1) On the appointment of a manager in accordance with regulation 62(1) the responsible individual must give notice to—

- (a) the independent fostering services provider of—
 - (i) the name of the person appointed, and
 - (ii) the date on which the appointment is to take effect; and
- (b) Social Care Wales and Welsh Ministers of—
 - (i) the name, date of birth and Social Care Wales registration number of the person appointed, and
 - (ii) the date on which the appointment is to take effect.

(2) Where an independent fostering services provider who is an individual is to manage the service, that individual must give notice to Social Care Wales of—

- (a) their name, date of birth and Social Care Wales registration number, and
- (b) the date from which they will manage the service.

Arrangements when manager is absent

66.—(1) The responsible individual must put suitable arrangements in place to ensure that the service is managed effectively at any time when there is no manager or when the manager is absent from the service.

(2) If there is no manager or the manager is absent for a period of more than 28 days, the responsible individual must—

- (a) inform the independent fostering services provider and the Welsh Ministers, and
- (b) advise them of the arrangements which have been put in place for the effective management of the service.

Oversight of adequacy of resources

67.—(1) The responsible individual must report to the independent fostering services provider on the adequacy of the resources available to provide the service in accordance with the requirements of these Regulations.

(2) Such reports must be made on a quarterly basis.

(3) The requirement in paragraph (2) does not apply where the fostering services provider is an individual.

Other reports to the independent fostering services provider

68.—(1) The responsible individual must, without delay, report to the independent fostering services provider—

- (a) any concerns about the management or provision of the service,
- (b) any significant changes to the way in which the service is managed or provided, and
- (c) any concerns that the service is not being provided in accordance with the statement of purpose for the service.

(2) The requirement in paragraph (1) does not apply where the fostering services provider is an individual.

Duty to ensure there are systems in place to record incidents and complaints

69. The responsible individual must ensure that there are effective systems in place to record incidents, complaints and matters on which notifications must be made under regulations 8 and 77.

Duty to ensure there are systems in place for keeping of records

70. The responsible individual must ensure that there are effective systems in place in relation to the records which must be kept under regulation 34, which include systems for ensuring the accuracy and completeness of records.

Engagement with children and others

71.—(1) The responsible individual must put suitable arrangements in place for obtaining the views of—

- (a) any child placed by the independent fostering services provider,
- (b) the parents of any such child, unless this is inappropriate or inconsistent with the child's well-being,
- (c) foster parents,
- (d) the placing authority, and
- (e) staff employed at the service

on the quality of care and support provided to children and how this can be improved.

(2) The responsible individual must report the views obtained to the independent fostering services provider so that these views can be taken into account by the provider when making any decisions on plans for improvement of the quality of care and support provided by the service.

Quality review

72.—(1) The responsible individual must put suitable arrangements in place to establish and maintain a system for monitoring and reviewing the quality of the service.

(2) The system established under paragraph (1) must make provision for the quality of the service to be reviewed as often as required but at least every six months.

(3) As part of any review undertaken, the responsible individual must make arrangements for—

- (a) considering the outcome of the engagement with children and others, as required by regulation 71 (engagement with children and others),
- (b) analysing the aggregated data on notifications, safeguarding matters, whistleblowing concerns and complaints,
- (c) reviewing any action taken in relation to complaints, and
- (d) considering the outcome of any audit of the accuracy and completeness of records.

(4) On completion of a review of the quality of the service in accordance with this regulation, the responsible individual must prepare a report to the independent fostering services provider which must include—

- (a) an assessment of the standard of care and support provided, and

(b) recommendations for the improvement of the service.

(5) The requirement in paragraph (4) does not apply where the independent fostering services provider is an individual.

Statement of compliance with the requirements as to standards of care and support

73.—(1) The responsible individual must prepare the statement required to be included in the annual return under section 10(2)(b) of the 2016 Act.

(2) When preparing the statement, the responsible individual must have regard to the assessment of the standard of care and support which is contained in the report prepared in accordance with regulation 72(4).

Duty to ensure policies and procedures are up to date

74. The responsible individual must put suitable arrangements in place to ensure that the policies and procedures of the independent fostering services provider are kept up to date, having regard to the statement of purpose.

Support for raising concerns

75. The responsible individual must ensure that the provider's whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service and foster parents to raise such concerns are being operated effectively.

Duty of candour

76. The responsible individual must act in an open and transparent way with—

- (a) any child who is placed by the independent fostering services provider,
- (b) the parents of any such child,
- (c) foster parents and prospective foster parents,
- (d) the placing authority.

Notifications

77.—(1) The responsible individual must notify the Welsh Ministers of the events specified in Schedule 5.

(2) The notifications required by paragraph (1) must include details of the event.

(3) Unless otherwise stated, notifications must be made without delay and in writing.

(4) Notifications must be made in such manner and in such form as may be required by the Welsh Ministers.

Failure to comply with the regulations

78.—(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2)(1).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations—

- (a) 61(1) (visits),
- (b) 61(2) (visits),
- (c) 62(1) (duty to appoint a manager),
- (d) 63(1) (fitness requirements for appointment of manager),
- (e) 65(1)(b) (duty to report the appointment of manager),
- (f) 65(2) (duty to report the appointment of manager),
- (g) 67(1) (oversight of adequacy of resources),
- (h) 67(2) (oversight of adequacy of resources),
- (i) 68(1) (other reports to the independent fostering services provider),
- (j) 72(4) (quality review),
- (k) 73(1) (statement of compliance with the requirements as to standards of care and support),
- (l) 77(1) (notifications), and
- (m) 77(3) (notifications).

PART 13

Duties of local authority manager

Oversight of adequacy of resources

79.—(1) The local authority manager must report to the local authority fostering services provider on the adequacy of the resources available to provide the service in accordance with the requirements of these Regulations.

(2) Such reports must be made on a quarterly basis.

(1) For penalties upon conviction for an offence under this regulation, see section 51(1) of the 2016 Act.

Other reports to the local authority fostering services provider

80. The local authority manager must, without delay, report to the provider—

- (a) any concerns about the provision of the service,
- (b) any significant changes to the way the service is managed or provided, and
- (c) any concerns that the service is not being provided in accordance with the statement of purpose for the service.

Duty to ensure there are systems in place to record complaints

81. The local authority manager must ensure that there are effective systems in place to record complaints.

Duty to ensure there are systems in place for keeping of records

82. The local authority manager must ensure that there are effective systems in place in relation to the records which must be kept in accordance with regulation 34, which include systems for ensuring the accuracy and completeness of records.

Duty to ensure policies and procedures are up to date

83. The local authority manager must put suitable arrangements in place to ensure that the provider's policies and procedures are kept up to date, having regard to the statement of purpose for the local authority fostering service.

Engagement with children and others

84.—(1) The local authority manager must put suitable arrangements in place for obtaining the views of—

- (a) any child placed by the local authority fostering services provider,
- (b) the parents of any such child, unless this is inappropriate or inconsistent with the child's well-being,
- (c) foster parents, and
- (d) staff employed at the service

on the quality of care and support provided and how this can be improved.

(2) The local authority manager must report the views obtained to the local authority fostering services provider so that these views can be taken into account

by the provider when making any decisions on plans for improvement of the quality of care and support provided by the service.

Quality of care review

85.—(1) The local authority manager must put suitable arrangements in place to establish and maintain a system for monitoring, reviewing and improving the quality of the local authority fostering service.

(2) The system established under paragraph (1) must make provision for the quality of care and support to be reviewed as often as required but at least every 12 months.

Support for raising concerns

86. The local authority manager must ensure that the local authority fostering services provider's whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service and foster parents to raise such concerns are being operated effectively.

PART 14

Establishment and Functions of Fostering Panels

Central list

87.—(1) The fostering services provider must maintain a list of persons who are considered by them to be suitable to be members of a fostering panel ("the central list"), including—

- (a) one or more social workers who have at least three years' relevant post-qualifying experience, and
- (b) one or more persons who have acted as a foster parent, provided that they are not, and never have been, appointed as a foster parent by the fostering services provider referred to in paragraph (1).

(2) A person who is included in the central list may at any time ask to be removed from the central list by giving one month's notice in writing to the fostering services provider, and setting out the reason for the decision.

(3) Where the fostering services provider is of the opinion that a person included in the central list is unsuitable or unable to remain on the list, the fostering services provider may remove that person's name from the list by giving them one month's notice in writing.

(4) Subject to paragraph (5) a member of the central list—

- (a) may hold office for a term not exceeding three years, and
- (b) may not hold office as a member of the central list of the same fostering services provider for more than three terms without an intervening period.

(5) For the purposes of paragraph (4)(b), an “intervening period” (“XX”) means an unbroken period of at least three years during all of which time the individual in question was not a member of the central list.

Fostering panels

88.—(1) Subject to paragraph (2), the fostering services provider must constitute one or more fostering panels, as necessary, to perform the functions of a fostering panel under these Regulations, and must appoint from the persons on the central list panel members including—

- (a) a person to chair the panel who must be independent of the fostering services provider (see paragraph (7) below), and
- (b) one or two persons who may act as chair if the person appointed to chair the panel is absent or that office is vacant (“the vice chairs”).

(2) A fostering panel may be constituted jointly by any two or more fostering services providers, in which case the appointment of members must be made by agreement between the fostering services providers.

(3) A local authority may pay to any member of a fostering panel constituted by them such fee as they may determine, being a fee of a reasonable amount.

(4) The fostering services provider must ensure that the fostering panel has sufficient members, and that individual members have between them the experience and expertise necessary, to effectively discharge the functions of the panel.

(5) Any fostering panel member may resign at any time by giving one month’s notice in writing to the fostering services provider which appointed them.

(6) Where a fostering services provider is of the opinion that any member of the fostering panel appointed by them is unsuitable or unable to continue as a panel member, they may terminate that member’s appointment at any time by giving the member notice in writing, and setting out the reasons for the decision.

(7) For the purposes of this regulation and regulation 90, a person is not independent of the fostering services provider if—

- (a) they are currently approved by the fostering services provider as a foster parent,
- (b) they are related to an employee of the fostering services provider, or to any person concerned in the management of that service,
- (c) in the case of a local authority fostering service, the person is an elected member of that local authority, or is employed by that local authority for the purposes of the fostering service or for the purposes of any of that local authority's functions relating to the protection or placement of children,
- (d) in the case of an independent fostering service, the person is employed by, or is a trustee of, that service,
- (e) for the purposes of paragraph (ii), a person ("person A") is related to another person ("person B") if person A is—
 - (aa) a member of the household of, or married to or the civil partner of person B;
 - (ab) the son, daughter, mother, father, sister or brother of person B; or
 - (ac) the son, daughter, mother, father, or brother of the person to whom person B is married or with whom person B has registered a civil partnership.

Functions of fostering panels

89.—(1) The functions of the fostering panel in respect of cases referred to it by the fostering services provider are—

- (a) to consider each application for approval and to recommend whether or not a person is suitable to act as a foster parent,
- (b) where it recommends approval of an application, to recommend the terms on which the approval is given,
- (c) to recommend whether or not a person remains suitable to act as a foster parent, and whether or not the terms of the person's approval remain appropriate—
 - (i) on the first review carried out in accordance with regulation 93(1); and
 - (ii) on the occasion of any other review when requested to do so by the fostering services provider in accordance with regulation 93(5), and
- (d) to consider any case referred to it under regulation 92(9) or 93(10).

(2) In considering what recommendation to make under paragraph (1), the fostering panel—

- (a) must consider and take into account all of the information passed to it in accordance with regulation 91, 92 or 93 (as the case may be),
- (b) may request the fostering services provider to obtain any other relevant information which the fostering panel considers necessary or to provide such other assistance as the fostering panel may request, and
- (c) may obtain such legal advice or medical advice it considers necessary in relation to the case.

(3) In relation to the case of a person in respect of whom a report has been prepared in accordance with regulation 91(6), the fostering panel must either—

- (a) request the fostering services provider to prepare a further written report, covering all the matters set out in regulation 91(5)(c), or
- (b) recommend that the person is not suitable to be a foster parent.

(4) The fostering services provider must obtain such information as the fostering panel considers necessary and send that information to the panel, and provide such other assistance as the fostering panel may request, so far as is reasonably practicable.

(5) The fostering panel must also—

- (a) advise on the procedures under which reviews in accordance with regulation 96 are carried out by the fostering services provider and periodically monitor their effectiveness,
- (b) oversee the conduct of assessments carried out by the fostering services provider, and
- (c) give advice and make recommendations on such other matters or individual cases as the fostering services provider may refer to it.

(6) The fostering panel must also make a written record of its proceedings and the reasons for its recommendations.

(7) In this regulation “recommend” means recommend to the fostering services provider.

Meetings of fostering panels

90.—(1) No business may be conducted by a fostering panel unless at least the following meet as the panel—

- (a) either the person appointed to chair the panel or one of the vice chairs,
- (b) one member who is a social worker who has at least three years’ relevant post-qualifying experience, and

- (c) three, or in the case of a fostering panel constituted jointly under regulation 88(2), four other members, and

where the chair is not present and the vice chair who is present is not independent of the fostering services provider, at least one of the other panel members must be independent of the fostering services provider.

(2) A fostering panel must make a written record of its proceedings and the reasons for its recommendations.

Assessment of prospective foster parents

91.—(1) Where a person applies to become a foster parent and the fostering services provider decides to assess that person's suitability to become a foster parent, any such assessment must be carried out in accordance with this regulation.

(2) Subject to paragraph (3), the fostering services provider—

- (a) must, as soon as reasonably practicable, obtain the information specified in Part 1 of Schedule 6 relating to the person and other members of the person's household and family,
- (b) where the person has been a foster parent within the preceding 12 months and was approved as such by another fostering services provider, must request a written reference from that other fostering services provider,
- (c) except in a case where (b) applies and the other fostering services provider provides the reference requested, must interview at least two individuals nominated by the person to provide personal references for them, and prepare written reports of the interviews,
- (d) except where the fostering services provider is a local authority and the person lives in the area of that authority, must consult, and take into account the views of, the local authority in whose area the person lives,
- (e) may, where the person was approved as a foster parent by another fostering services provider and consents, request access to the relevant records compiled by that other fostering services provider in relation to the person, and
- (f) may, where the person has been approved as a prospective adopter by an adoption agency and consents, request access to the relevant records compiled by that adoption agency in relation to that person.

(3) Where—

- (a) having regard to any information obtained under paragraph (2), the fostering services provider decides that the person is not suitable to become a foster parent, or
- (b) the person is not suitable to become a foster parent by virtue of paragraphs 8 to 10, and paragraph 11 does not apply,

the fostering services provider must notify the person in writing that they are not suitable to be a foster parent giving the reasons for that decision.

(4) The notification in paragraph (3)—

- (a) may be given notwithstanding that the fostering services provider has not obtained all the information set out in paragraph (2), and
- (b) may not be given more than 10 working days after the fostering services provider has obtained all the information set out in paragraph (2).

(5) Where the fostering services provider has obtained all the information set out in paragraph (2) and has not given the notification in paragraph (3) within 10 working days of doing so, the fostering services provider must, subject to paragraph (6)—

- (a) obtain the information specified in Part 2 of Schedule 6 relating to the person and other members of the person's household and any other information considered relevant,
- (b) consider whether the person is suitable to be a foster parent and whether the person's household is suitable for any child,
- (c) prepare a written report on the person which includes the following matters—
 - (i) the information required by Schedule 6 and any other information the fostering services provider considers relevant,
 - (ii) the assessment of the fostering services provider of the person's suitability to be a foster parent, and
 - (iii) the proposals of the fostering services provider about any terms of approval, and
- (d) notify the person that the case is to be referred to the fostering panel, and give the person a copy of the report prepared under subparagraph (c) inviting the person to send any observations in writing to the fostering services provider within 10 working days beginning with the date on which the notification is sent.

(6) Where, having regard to any information obtained under paragraph 5(a), the fostering services provider decides that the person is unlikely to be

considered suitable to become a foster parent, it may prepare a written report under paragraph (5)(c) notwithstanding that the fostering services provider may not have obtained all the information about the person which is required by paragraph (5)(c).

(7) At the end of the 10 working days referred to in paragraph (5)(d) (or when the person's observations are received, whichever is sooner), the fostering services provider must send—

- (a) the report prepared under paragraph (5)(c),
- (b) the person's observations on that report, if any, and
- (c) any other relevant information obtained by the fostering services provider,

to the fostering panel.

(8) Subject to paragraph (11), the person is not suitable to be a foster parent if the person, or any member of the person's household aged 18 or over—

- (a) has been convicted of a specified offence committed at the age of 18 or over, or
- (b) has been cautioned by a constable in respect of any such offence.

(9) In paragraph (8) "specified offence" means—

- (a) an offence against a child,
- (b) an offence specified in Part 1 of Schedule 7,
- (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979⁽¹⁾ in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876⁽²⁾ (prohibitions and restrictions) where the prohibited goods included indecent photographs of children under the age of 16,
- (d) any other offence involving bodily injury to a child, other than an offence of common assault or battery, and

the expression "offence against a child" has the meaning given to it by section 26(1) of the Criminal Justice and Court Services Act 2000⁽³⁾, notwithstanding that that provision has been repealed⁽⁴⁾, except that it does not include an offence contrary to section 9 of the Sexual Offences Act 2003⁽⁵⁾ (sexual activity with a child) in a case where the offender was under the age of 20 at the time the

(1) 1979 c.2.

(2) 1876 c.36. Section 42 was amended by Part IX of Schedule 1 to the Statute Law (Repeals) Act 1993 (c.50), and paragraph 1 of Schedule 2 to the Statute Law (Repeals) Act 2008 (c.12) and by other provisions which are not relevant to these Regulations.

(3) 2000 c.43.

(4) See Schedule 10 to the Safeguarding Vulnerable Groups Act 2006 (c.47).

(5) 2003 c.42.

offence was committed and the child was aged 13 or over.

(10) Subject to paragraph (11), a person is not suitable to be a foster parent if the person, or any member of the person's household aged 18 or over—

- (a) has been convicted of an offence specified in paragraph 1 of Part 2 of Schedule 7 committed at the age of 18 or over, or has been cautioned by a constable in respect of any such offence, or
- (b) falls within paragraph 2 or 3 of Part 2 of Schedule 7,

notwithstanding that the statutory offences in Part 2 of Schedule 7 have been repealed.

(11) The fostering services provider may regard a person who falls within paragraph (8) or (10) as suitable to be a foster parent in relation to a particular child (or children), if the fostering services provider is satisfied that the welfare of that child (or those children) requires it, and either—

- (a) the person, or a member of their household, is a relative of the child, or
- (b) the person is already acting as a foster parent for the child.

(12)

In this regulation, and regulations 92 and 93 and Schedules 6 and 8, a person who is living in the person's household in parent and child arrangements, is a member of the person's household

Approval of foster parents

92.—(1) A fostering services provider must not approve a person who has been approved as a foster parent by another fostering services provider and whose approval has not been terminated.

(2) A fostering services provider must not approve a person as a foster parent unless—

- (a) the provider has completed its assessment of the person's suitability, and
- (b) the provider's fostering panel has considered the application.

(3) A fostering services provider must, in deciding whether to approve a person as a foster parent and as to the terms of any approval, take into account the recommendation of the fostering panel.

(4) No member of the fostering panel may take part in any decision made by a fostering services provider under paragraph (3).

(5) If a fostering services provider decides to approve a person as a foster parent, the provider must—

- (a) give the person notice in writing specifying the terms of the approval as a foster parent, for example, whether it is in respect of a particular named child or children, or number and age range of children, or of placements of any particular kind, or in any particular circumstances, and
- (b) enter into a foster care agreement with the person .

(6) If a fostering services provider considers that a person is not suitable to act as a foster parent, the provider must, subject to paragraph (7)—

- (a) give the person written notice of the proposal not to approve the person as suitable to act as a foster parent (a “determination”), together with the reasons for that proposal and a copy of the fostering panel’s recommendation, and
- (b) advise the person that within 28 days of the date of the notice the person may—
 - (i) submit any written representations that the person wishes to make to the fostering services provider; or
 - (ii) apply to the Welsh Ministers for a review of the determination by an independent review panel.

(7) Paragraph (6)(b)(ii) does not apply in a case where the fostering service provider decides that they are no longer of the view that a person is suitable to act or to continue to act, as the case may be, as a foster parent under regulation 91(11).

(8) If within the period referred to in paragraph (6)(b)—

- (a) the fostering services provider does not receive any representations, and
- (b) the person does not apply to the Welsh Ministers for a review by an independent review panel of the determination,

the fostering services provider may proceed to make its decision.

(9) If within the period referred to in paragraph (6)(b) the fostering services provider receives any written representations, the provider must—

- (a) refer the case to the fostering panel for further consideration, and
- (b) make a decision, taking into account any fresh recommendation made by the fostering panel.

(10) If within the period referred to in paragraph (6)(b) the person applies to the Welsh Ministers for a review by an independent review panel of the

determination, the fostering services provider must make a decision taking into account the recommendation of the fostering panel and the recommendation of the independent review panel.

(11) As soon as practicable after making the decision referred to in paragraph (8), (9)(b) or (10) as the case may be, the fostering services provider must notify the person in writing and—

- (a) if the decision is to approve the person as a foster parent, comply with paragraph (5) in relation to the person, or
- (b) if the decision is not to approve the person, provide written reasons for its decision.

(12) In a case where an independent review panel has made a recommendation, the fostering services provider must send to the Welsh Ministers a copy of the notification referred to in paragraph (11).

Reviews and terminations of approval

93.—(1) The fostering services provider must review the approval of each foster parent in accordance with this regulation.

(2) A review must take place not more than one year after approval and thereafter whenever the fostering services provider considers it necessary, but at intervals of not more than one year.

(3) When undertaking a review, the fostering services provider must—

- (a) make such enquiries and obtain such information as considered necessary in order to review whether the foster parent continues to be suitable to act as a foster parent and the foster parent's household continues to be suitable,
- (b) seek and take into account the views of—
 - (i) the foster parent;
 - (ii) (subject to the child's age and understanding) any child placed with the foster parent, and
 - (iii) in the case of an independent fostering services provider, any local authority which has within the preceding year placed a child with the foster parent.

(4) At the conclusion of the review the fostering services provider must prepare a written report setting out whether—

- (a) the foster parent continues to be suitable to act as a foster parent and the foster parent's household continues to be suitable, and
- (b) the terms of the foster parent's approval continue to be appropriate.

(5) The fostering services provider must on the occasion of the first review under this regulation, and may on any subsequent review, refer their report to the fostering panel for consideration.

(6) If the fostering services provider decides, taking into account any recommendation made by the fostering panel, that the foster parent and the foster parent's household continue to be suitable and that the terms of the foster parent's approval continue to be appropriate, the provider must give written notice to the foster parent of that decision.

(7) If taking into account any recommendation made by the fostering panel, the fostering services provider is no longer satisfied that the foster parent and the foster parent's household continue to be suitable, or that the terms of the approval are appropriate, the provider must (subject to paragraph (9))—

- (a) give written notice to the foster parent of the proposal to terminate or, as the case may be revise the terms of the foster parent's approval (a "determination"), together with the reasons for that proposal and a copy of any recommendation made by the fostering panel, and
- (b) advise the foster parent that within 28 days of the date of the notice the foster parent may—
 - (i) submit any written representations that the foster parent wishes to make to the fostering services provider, or
 - (ii) apply to the Welsh Ministers for a review of the determination by an independent review panel.

(8) Paragraph (7)(b)(ii) does not apply to a case where the fostering service provider decides that they are no longer of the view that a person is suitable to act or to continue to act, as the case may be, as a foster parent under regulation 91(11).

(9) If within the period referred to in paragraph (7)(b)—

- (a) the fostering services provider does not receive any representations, and
- (b) the foster parent does not apply to the Welsh Ministers for a review of the determination by an independent review panel,

the fostering services provider may proceed to make its decision.

(10) If within the period referred to in paragraph (7)(b) the fostering services provider receives any written representations, the provider must—

- (a) refer the case to the fostering panel for its consideration, and
- (b) make a decision, taking into account any recommendation made by the fostering panel.

(11) If the foster parent applies within the period referred to in paragraph (7)(b) to the Welsh Ministers for a review of the determination by an independent review panel, the fostering services provider must make their decision taking into account any recommendations made by the fostering panel and the recommendation of the independent review panel.

(12) As soon as practicable after making the decision referred to in paragraph (9), (10)(b) or (11), the fostering services provider must give written notice to the foster parent stating, as the case may be—

- (a) that the foster parent and the foster parent's household continue to be suitable, and that the terms of the approval continue to be appropriate,
- (b) that the foster parent's approval is terminated from a specified date, and the reasons for the termination, or
- (c) the revised terms of the approval and the reasons for the revision.

(13) A foster parent may give notice in writing to the fostering services provider at any time that the foster parent no longer wishes to act as a foster parent, whereupon the foster parent's approval is terminated with effect from 28 days from the date on which the notice is received by the fostering services provider.

(14) A copy of any notice given under this regulation must be sent to the local authority for any child placed with the foster parent (unless the local authority is also the fostering services provider).

(15) In a case where an independent review panel has made a recommendation, the fostering services provider must send to the Welsh Ministers a copy of the notification referred to in paragraph (13).

Information to be sent to the independent review panel

94.—(1) This regulation applies where the fostering services provider receives notice from the Welsh Ministers that a person has applied for a review of a determination by an independent review panel.

(2) The fostering services provider must, within 10 working days of receipt of the notice referred to in paragraph (1), send to the Welsh Ministers the documents and information specified in paragraph (3).

(3) The following documents and information are specified for the purposes of paragraph (2)—

- (a) a copy of any report prepared for, and of any other documents referred to the fostering panel, for the purposes of regulation 91, 92, or 93 as the case may be,
- (b) any relevant information in relation to the person which was obtained by the fostering

services provider after the date on which the report was prepared or the documents referred to the fostering panel, and

- (c) a copy of the notice and of any other documents sent in accordance with regulation 92(6)(a) or 93(7)(a).

Case records relating to foster parents and others

95.—(1) A fostering services provider must maintain a case record for each foster parent approved by the provider which must include copies of the documents specified in paragraph (2) and the information specified in paragraph (3).

(2) The documents referred to in paragraph (1) are, as the case may be—

- (a) the notice of approval given under regulation 92(5)(a),
- (b) the foster care agreement,
- (c) any report of a review of approval prepared under regulation 93(4)(a),
- (d) any notice given under regulation 93(10),
- (e) the report prepared under regulation 91(5)(c) and any other reports submitted to the fostering panel, and
- (f) any recommendations made by the fostering panel.

(3) The information referred to in paragraph (1) is, as the case may be—

- (a) a record of each placement with the foster parent including the name, age and sex of each child placed, the dates on which each placement began and terminated and the circumstances of the termination,
- (b) the information obtained by the fostering services provider in relation to the assessment and approval of the foster parent and in relation to any review or termination of the approval.

(4) The fostering services provider must compile a record for each person whom it does not approve as a foster parent, or whose application is withdrawn prior to approval, which must include in relation to the person—

- (a) the information obtained in connection with the assessment,
- (b) any report submitted to the fostering panel and any recommendation made by the fostering panel, and
- (c) any notification given under regulation 92.

(5) A local authority fostering services provider must also maintain a case record for each person with whom

a child is placed under regulation 26 of the 2015 Regulations (temporary approval of a relative, friend or other person connected with a child) or under regulation 28 of those Regulations (temporary approval of a particular prospective adopter as a foster parent) which must include in relation to that person—

- (a) a record in relation to the placement, including the name, age and sex of each child placed, the date on which the placement began and, if the placement has been terminated, the date and circumstances of the termination, and
- (b) the information obtained in relation to the enquiries carried out under regulation 26(2) or regulation 28 (as appropriate) of the 2015 Regulations.

List of foster parents

96. The fostering services provider must maintain a list of foster parents and enter in it the following particulars in relation to each foster parent—

- (a) the name, address, date of birth and sex of each foster parent and, in the case of a local authority fostering service, of each person with whom it has placed a child under regulation 26 or regulation 28 of the 2015 Regulations,
- (b) the date of approval and of each review of approval (as the case may be), and
- (c) the current terms of the approval (if any).

Retention and confidentiality of records

97.—(1) The records compiled in relation to a foster parent under regulation 95(1), and any entry relating to that person in the list maintained under regulation 96(1) must be retained for at least 10 years from the date on which that person's approval is terminated.

(2) The records compiled by a local authority under regulation 95(5) in relation to a person with whom a child is placed under regulation 26 or regulation 28 of the 2015 Regulations, and any entry relating to such a person in the list maintained under regulation 96, must be retained for at least 10 years from the date on which the placement is terminated.

(3) The records compiled under regulation 95(4) must be retained for at least 3 years from the refusal or withdrawal, as the case may be, of the application to become a foster parent.

(4) Any records maintained in accordance with regulation 95 or 96 must be kept securely and may not be disclosed to any person except in accordance with—

- (a) any provision of, or made under, or by virtue of, a statute under which access to such records is authorised, or
- (b) any court order authorising access to such records.

Huw Irranca-Davies

Minister for Children and Social Care under authority
of the Cabinet Secretary for Health and Social
Services, one of the Welsh Ministers

Date

DRAFT

Notifications by the independent
fostering services provider

PART 1

Notifications to the Welsh Ministers

1. Death of a child placed with foster parents.
2. Information is provided to the Disclosure and Barring Service under any of sections 35, 36, 39, 41 or 45 of the Safeguarding Vulnerable Groups Act 2006⁽¹⁾ in respect of an individual working for a fostering service.
3. Serious illness or serious accident of a child placed with foster parents.
4. Outbreak at the home of a foster parent of any infectious disease which in the opinion of a general practitioner attending the home is sufficiently serious to be so notified.
5. Allegation that a child placed with foster parents has committed a serious offence.
6. Involvement or suspected involvement of a child placed with foster parents in prostitution.
7. Serious incident relating to a child placed with foster parents necessitating the police being called to the home of the foster parents.
8. Absconding by a child placed with foster parents.
9. Any serious complaint about any foster parent approved by the independent fostering services provider.
10. Instigation and outcome of any child protection enquiry involving a child placed with foster parents.
11. Any incident of child sexual exploitation or suspected child exploitation.
12. Where the registered manager or independent fostering services provider (if an individual) or responsible individual (if the provider is an organisation) is convicted of any criminal offence, whether in Wales and England or elsewhere, of—
 - (a) the date and place of conviction,
 - (b) the offence of which they were convicted, and

(1) 2006 c.47.

(c) the penalty imposed in respect of the offence.

13. Notice of changes if—

- (a) a person ceases to carry on or manage the independent fostering service,
- (b) where the independent fostering services provider is an individual, the individual changes their name,
- (c) where the independent fostering services provider is an organisation—
 - (i) the name or address of the organisation is changed,
 - (ii) there is any change of director, manager, secretary or other similar officer of the organisation,
 - (iii) there is to be any change in the identity of the responsible individual,
- (d) where the independent fostering services provider is an individual, a trustee in bankruptcy is appointed or a composition or arrangement is made with creditors, or
- (e) where the independent fostering services provider is a company, or is in a partnership, a receiver, manager, liquidator or provisional liquidator is appointed in respect of the registered provider.

14. The independent fostering services provider must notify the Welsh Ministers in writing and without delay of the death of the registered manager.

PART 2

Notifications to the placing authority

1. Death of a child placed with foster parents.

2. Information is provided to the Disclosure and Barring Service under any of sections 35, 36, 39, 41 or 45 of the Safeguarding Vulnerable Groups Act 2006 in respect of an individual working for an independent fostering service.

3. Serious illness or serious accident of a child placed with foster parents.

4. Outbreak at the home of a foster parent of any infectious disease which in the opinion of a general practitioner attending the home is sufficiently serious to be so notified.

5. Allegation that a child placed with foster parents has committed a serious offence.

6. Involvement or suspected involvement of a child placed with foster parents in prostitution.

7. Any serious incident relating to a child placed with foster parents which required the police to be called to the home of the foster parents.

8. Absconding by a child placed with foster parents.

9. Any serious complaint or allegation about any foster parent approved by the fostering services provider.

10. Instigation and outcome of any child protection enquiry involving a child placed with foster parents.

11. Any incident of child sexual exploitation or suspected child exploitation.

PART 3

Notifications to the local authority in whose area the foster home is situated

1. Death of a child placed with foster parents.

2. Involvement or suspected involvement of a child placed with foster parents in prostitution.

3. Any incident of child sexual exploitation or suspected child exploitation.

4. Instigation and outcome of any child protection enquiry involving a child placed with foster parents.

5. Any serious incident relating to a child placed with foster parents which required the police to be called to the home of the foster parents.

PART 4

Notifications to the local health board in whose area the child is placed

1. The death of a child placed with foster parents.

2. Outbreak at the home of a foster parent of any infectious disease which in the opinion of a general practitioner attending the home is sufficiently serious to be so notified.

PART 5

Notifications to the police

1. Allegation that a child placed with foster parents has committed a serious offence.

2. Involvement or suspected involvement of a child placed with foster parents in prostitution.

3. Any incident of child sexual exploitation or suspected child exploitation.

SCHEDULE 2 Regulation 19

Information to be contained in a statement of purpose by a local authority fostering services provider

The statement of purpose provided by a local authority fostering services provider must contain the following information—

- (a) the name and principal address of the local authority,
- (b) the name of the manager,
- (c) a statement of the range of needs of the children for whom the service is to be provided,
- (d) how the service is to be provided to meet the needs of children and to support them to achieve their personal outcomes,
- (e) details of the management and staff structure of the service,
- (f) details of the facilities and equipment that will be available for foster parents to assist them to meet the needs of children and to support them to achieve their personal outcomes,
- (g) details of the arrangements made to support the cultural, linguistic and religious needs of children,
- (h) details of the arrangements made to provide support to children in relation to their sexual orientation and gender identity,
- (i) details of the arrangements made for consulting children about the operation of the local authority fostering service,
- (j) details of how the local authority will meet children's language and communication needs, including through the medium of Welsh.

SCHEDULE 3 Regulation 34

Records to be kept by fostering services providers

1. A record showing in respect of each child placed with foster parents—

- (a) the date of the child's placement;
- (b) the child's care and support plan;

- (c) the foster care agreement in respect of the child;
- (d) the name and address of the foster parent;
- (e) the date on which the child ceased to be placed there;
- (f) the child's address prior to placement;
- (g) the child's address on leaving the placement
- (h) the child's local authority (if it is not the fostering services provider);
- (i) the statutory provision under which the child is or was provided with foster care.

2. A record of all persons working for the fostering services provider, which must include in respect of a person falling within regulation 54(1) the following matters—

- (a) full name and home address;
- (b) date of birth;
- (c) sex;
- (d) qualifications relevant to, and experience of work involving, children;
- (e) copy birth certificate and passport (if any);
- (f) copy of each reference obtained in respect of the person;
- (g) whether the person is employed by the fostering services provider under a contract of service, a contract for services, or otherwise than under a contract, or is employed by someone other than the fostering services provider;
- (h) whether the person works full-time or part-time, and, if part-time, the average number of hours worked per week;
- (i) the dates on which the person commences and ceases to be so employed;
- (j) the position the person holds in the service;
- (k) records of disciplinary action and any other records in relation to the person's employment; and
- (l) a record of the date of a DBS certificate and whether there was any action taken as a result of the content of the certificate.

3. A record of all accidents occurring to children whilst placed with foster parents.

4. Date and circumstances of any safeguarding referrals, and the outcome.

5. Date and circumstances of any measures of control or restraint used by a foster parent on a child.

PART 1

Information and documents to be available in respect of persons working in fostering services

1. Proof of identity including a recent photograph.

2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997⁽¹⁾, a copy of a valid⁽²⁾ criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request).

3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of a valid⁽³⁾ enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children (within the meaning of section 113BA(2) of that Act) or suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act).

4. Two written references, including a reference from the last employer, if any.

5. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable verification of the reason why the employment or position ended.

6. Documentary evidence of any relevant qualification.

7. Where relevant, documentary evidence of registration with Social Care Wales.

8. A full employment history, together with a satisfactory written explanation of any gaps in employment.

9. Details of registration with or membership of any professional body.

(1) 1997 c. 50.

(2) For the meaning of "valid", see Part 2 of this Schedule.

(3) For the meaning of "valid", see Part 2 of this Schedule.

PART 2

Interpretation of Part 1

10. For the purposes of paragraphs 2 and 3 of Part 1 of this Schedule—

- (a) if the person to whom the certificate relates is not registered with the DBS update service, a certificate is only valid if—
 - (i) it has been issued in response to an application by the fostering services provider in accordance with regulation 54(3) or (6), and
 - (ii) no more than three years have elapsed since the certificate was issued;
- (b) if the person to whom the certificate relates is registered with the DBS update service, the certificate is valid regardless of when it was issued.

SCHEDULE 5 Regulation 77

Notifications by the responsible individual

- 1.** The appointment of a manager (see regulation 65(1)).
- 2.** The expected absence of the appointed manager for 28 days or more, 7 days prior to the commencement of the absence.
- 3.** The unexpected absence of the appointed manager, no later than 7 days after the commencement of the absence.
- 4.** The unexpected absence of appointed manager for 28 days or more where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
- 5.** Return from absence of appointed manager.
- 6.** Interim arrangements where the manager is absent for longer than 28 days.
- 7.** Someone other than the appointed manager is proposing to manage or is managing the service.
- 8.** The appointed manager ceases, or proposes to cease, managing the service.

SCHEDULE 6 Regulation 91

Information as to prospective foster parents and other members of their household and family

PART 1

1. Full name, address and date of birth.
2. Details of health (supported by a medical report).
3. Particulars of any other adult members of the household.
4. Particulars of the children in the family, whether or not members of the household, and any other children in the household.
5. Particulars of their accommodation.
6. The outcome of any request or application made by them or any other member of their household to foster or adopt children, or for registration as a child minder or provider of day care under Part 2 of the Children and Families (Wales) Measure 2010(1), including particulars of any previous approval or refusal of approval relating to them or to any other member of the household.
7. If the person has, in the preceding twelve months, been a foster parent approved by another fostering services provider, the name and address of that fostering services provider.
8. Names and addresses of two persons who will provide personal references for the person.
9. In relation to the person and any other member of the person's household who is aged 18 or over, an enhanced criminal record certificate issued under section 113B of the Police Act 1997(2) which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act).
10. Details of current, and any previous, marriage, civil partnership or similar relationship.

PART 2

11. Details of personality.

(1) 2010 nawm 1.

(2) 1997 c.50.

12. Religious persuasion, and capacity to care for a child from any particular religious persuasion.

13. Racial origin, cultural and linguistic background and capacity to care for a child from any particular racial origin or cultural or linguistic background.

14. Capacity to provide support to a child in relation to their sexual orientation and gender identity.

15. Past and present employment or occupation, standard of living, leisure activities and interests.

16. Previous experience (if any) of caring for their own and other children.

17. Skills, competence and potential relevant to their capacity to care effectively for a child placed with them.

SCHEDULE 5 Regulation 91

Offences Specified for the Purposes of Regulation 91

PART 1

Offences in England and Wales

- 1.** Any of the following offences against an adult—
- (a) an offence of rape under section 1 of the Sexual Offences Act 2003⁽¹⁾,
 - (b) an offence of assault by penetration under section 2 of that Act,
 - (c) an offence of causing a person to engage in sexual activity without consent under section 4 of that Act, if the activity fell within subsection (4) of that section,
 - (d) an offence of sexual activity with a person with a mental disorder impeding choice under section 30 of that Act, if the touching fell within subsection (3) of that section,
 - (e) an offence of causing or inciting a person with mental disorder impeding choice to engage in sexual activity under section 31 of that Act, if the activity caused or incited fell within subsection (3) of that section,
 - (f) an offence of inducement, threat or deception to procure sexual activity with a person with a mental disorder under section 34 of that Act, if the touching involved fell within subsection (2) of that section, and

(1) 2003 c.42.

- (g) an offence of causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception under section 35 of that Act, if the activity fell within subsection (2) of that section.

Offences in Scotland

2. An offence under section 1 (rape) and 18 (rape of a young child) of the Sexual Offences (Scotland) Act 2009⁽¹⁾.

3. An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995⁽²⁾, except in a case where the offender was under the age of 20 at the time the offence was committed.

4. An offence of plagium (theft of a child below the age of puberty).

5. An offence under section 52 or 52A of the Civic Government (Scotland) Act 1982⁽³⁾ (indecent photographs of children).

6. An offence under section 3 of the Sexual Offences (Amendment) Act 2000⁽⁴⁾ (abuse of trust).

Offences in Northern Ireland

7. An offence under Article 5 (rape) and Article 12 (rape of a child under 13) of the Sexual Offences (Northern Ireland) Order 2008⁽⁵⁾.

8. An offence specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968⁽⁶⁾,

(1) 2009 asp 9.

(2) 1995 c.46. Schedule 1 was amended by the Sexual Offences (Scotland) Act 2009, (asp 9), Sch.5 para. 2(8)(a) and (b), sections 7(1) and 8(2) of the Prohibition of Female Genital Mutilation (Scotland) Act 2005 (asp 8), paragraph 2 of Schedule 1 to the Protection of Children and Prevention of Sexual Offences (Scotland)

Act 2005 (asp 9) ("the 2005 Act") and by section 41(2) of the Criminal Justice Licensing (Scotland) Act 2010 (asp 13).

(3) 1982 c.45. Section 52 was amended by section 84(6) of, and paragraph 17 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c.33) ("the 1994 Act"), paragraph 44(3) of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) and paragraph 89 of Schedule 15 to the Criminal Justice Act 1988 (c.33) ("the 1988 Act"). Section 52A was inserted by section 161 of the 1988 Act and was amended by section 84(7) of the 1994 Act.

(4) 2000 c.44. Section 3 was amended by paragraph 62 of Schedule 28 to the Civil Partnership Act 2004 (c.33) and repealed by Schedule 6 of the Sexual Offences (Scotland) Act 2009 (not yet in force).

(5) S.I. 2008/1769 ("the 2008 Order").

(6) 1968 c.34 (N.I.). Schedule 1 was amended by paragraph 7 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c.28), article 7 of the Child Abduction (Northern Ireland) Order 1985 (N.I. 17), Schedule 54(b) of Schedule 9 to the

except in the case where the offender was under the age of 20 at the time the offence was committed.

9. An offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978**(1)** (indecent photographs).

10. An offence contrary to Article 15 of the Criminal Justice (Evidence, etc) (Northern Ireland) Order 1988**(2)** (possession of indecent photographs of children).

PART 2

11.—(1) An offence under any of the following sections of the Sexual Offences Act 1956**(3)**—

- (a) section 1 (rape),
- (b) section 5 (intercourse with a girl under 13),
- (c) subject to paragraph 4, section 6 (intercourse with a girl under 16),
- (d) section 19 or 20 (abduction of girl under 18 or 16),
- (e) section 25 or 26 (permitting girl under 13, or between 13 and 16, to use premises for intercourse), and
- (f) section 28 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under 16).

(2) An offence under section 1 of the Indecency with Children Act 1960**(4)** (indecent conduct towards young child).

(3) An offence under section 54 of the Criminal Law Act 1977**(5)** (inciting girl under 16 to incest), notwithstanding that the provision has been repealed.

(4) An offence under section 3 of the Sexual Offences (Amendment) Act 2000**(6)** (abuse of trust) notwithstanding that the provision has been repealed.

Children (Northern Ireland) Order 1995 (N.I.17), paragraph 6(a), (b) and (c) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 2003 (N.I.13), paragraph 18(3) of Schedule 6 to the Sexual Offences Act 2003 (c.42), paragraph 12(4) of Schedule 1 to the 2008 Order and paragraph 57 of Schedule 21 to the Coroners and Justice Act 2009 (c.25).

(1) S.I. 1978/1047 (N.I.17). Article 3 was amended by section 84 of the 1994 Act and article 42(4) of the 2008 Order.

(2) S.I. 1988/1847 (N.I.17). Article 15 was amended by section 41(4) of the Criminal Justice and Courts Services Act 2000 (c.43), section 84(11) of the 1994 Act, paragraph 25 of Schedule 26 to the Criminal Justice and Immigration Act 2008 and article 42(7) of the 2008 Order.

(3) 1956 c.69

(4) 1960 c.33

(5) 1977 c.45

(6) 2000 c.44

12. A person falls within this paragraph if the person has been convicted of any of the following offences against a child committed at the age of 18 or over or has been cautioned by a constable in respect of any such offence—

- (a) an offence under section 2 or 3 of the Sexual Offences Act 1956 (procurement of woman by threats or false pretences),
- (b) an offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse),
- (c) an offence under section 14 or 15 of that Act (indecent assault),
- (d) an offence under section 16 of that Act (assault with intent to commit buggery),
- (e) an offence under section 17 of that Act (abduction of woman by force or for the sake of her property), and
- (f) an offence under section 24 of that Act (detention of woman in brothel or other premises).

13. A person falls within this paragraph if the person has been convicted of any of the following offences committed at the age of 18 or over or has been cautioned by a constable in respect of any such offence—

- (a) an offence under section 7 of the Sexual Offences Act 1956 (intercourse with defective) by having sexual intercourse with a child,
- (b) an offence under section 9 of that Act (procurement of defective) by procuring a child to have sexual intercourse,
- (c) an offence under section 10 of that Act (incest by a man) by having sexual intercourse with a child,
- (d) an offence under section 11 of that Act (incest by a woman) by allowing a child to have sexual intercourse with her,
- (e) subject to paragraph 4, an offence under section 12 of that Act by committing buggery with a child under the age of 16,
- (f) subject to paragraph 4, an offence under section 13 of that Act by committing an act of gross indecency with a child,
- (g) an offence under section 21 of that Act (abduction of defective from parent or guardian) by taking a child out of the possession of her parent or guardian,
- (h) an offence under section 22 of that Act (causing prostitution of women) in relation to a child,

- (i) an offence under section 23 of that Act (procurement of girl under 21) by procuring a child to have sexual intercourse with a third person,
- (j) an offence under section 27 of that Act (permitting defective to use premises for intercourse) by inducing or suffering a child to resort to or be on premises for the purpose of having sexual intercourse,
- (k) an offence under section 29 of that Act (causing or encouraging prostitution of defective) by causing or encouraging the prostitution of a child,
- (l) an offence under section 30 of that Act (man living on earnings of prostitution) in a case where the prostitute is a child,
- (m) an offence under section 31 of that Act (woman exercising control over prostitute) in a case where the prostitute is a child,
- (n) an offence under section 128 of the Mental Health Act 1959(1) (sexual intercourse with patients), notwithstanding that the provision has been repealed, by having sexual intercourse with a child,
- (o) an offence under section 4 of the Sexual Offences Act 1967(2) (procuring others to commit homosexual acts) (notwithstanding that the provision has been repealed) by—
 - (i) procuring a child to commit an act of buggery with any person, or
 - (ii) procuring any person to commit an act of buggery with a child,
- (p) an offence under section 5 of that Act (living on earnings of male prostitution) by living wholly or in part on the earnings of prostitution of a child, and
- (q) an offence under section 9(1)(a) of the Theft Act 1968(3) (burglary), by entering a building or part of a building with intent to rape a child.

14. Paragraphs 1(c) and 3(e) and (f) do not include offences in a case where the offender was under the age of 20 at the time the offence was committed.

(1) 1959 c.72
 (2) 1967 c.60
 (3) 1968 c.60

Matters and Obligations in Foster Care Agreements

1. Matters to be recorded

- (a) the terms of the foster parent's approval,
- (b) support and training to be given to the foster parent,
- (c) the procedure for the review of approval of a foster parent,
- (d) the procedure in connection with the placement of children,
- (e) the arrangements for meeting any legal liabilities of the foster parent arising by reason of a placement,
- (f) the procedure available to foster parents for making complaints and representations.

2. Obligations on the foster parent

- (a) to care for any child placed with them as if the child was a member of the foster parent's family and to promote that child's welfare having regard to the long and short-term plans for the child,
- (b) to give written notice to the fostering services provider without delay, with full particulars, of—
 - (i) any intended change of the foster parent's address,
 - (ii) any change in the composition of the household,
 - (iii) any other change in the foster parent's personal circumstances and any other event affecting either their capacity to care for any child placed or the suitability of the household, and
 - (iv) any request or application to adopt children, or for registration for child minding or day care under Part 2 of the Children and Families (Wales) Measure 2010⁽¹⁾,
- (c) not to administer corporal punishment to any child placed with the foster parent,
- (d) to ensure that any information relating to a child placed with the foster parent, to the

(1) 2010 nawm 1

child's family or to any other person, which has been given to them in confidence in connection with a placement is kept confidential and is not disclosed to any person without the consent of the fostering services provider,

- (e) to provide care and support to a child placed with the foster parent in accordance with the child's care and support plan and in a way which maintains, protects and promotes the safety and well-being of the child,
- (f) to maintain a good personal and professional relationship with a child placed with the foster parent,
- (g) not to deprive the liberty of any child placed with the foster parent without lawful authority,
- (h) to promote contact between a child placed with a foster parent and the child's parents, relatives and friends, in accordance with the child's care and support plan and any court order relating to contact,
- (i) to comply with the policies and procedures of the fostering services provider issued under these Regulations,
- (j) to promote the health and development of children placed with the foster parent,
- (k) to ensure that the premises, facilities and equipment used by foster parents are—
 - (i) suitable and safe for the purpose for which they are intended to be used,
 - (ii) used in a safe way,
 - (iii) properly maintained, and
 - (iv) kept clean to a standard which is appropriate for the purpose for which they are being used,
- (l) to co-operate as reasonably required with the Welsh Ministers and in particular to allow a person authorised by the Welsh Ministers to interview the foster parent and visit the foster parent's home at any reasonable time,
- (m) to keep the fostering services provider informed about the child's progress and to notify it as soon as is reasonably practicable of any significant events affecting the child.