

Section 4 – Working with children & young people

4.1 The law and legal status of children in foster care

The law and fostering

The law relating to the foster care of children is contained in the Children Act 1989 and The Fostering Services (England) Regulations 2011.

The legal framework is complex and you will not be expected to know all of it. It is important however that you understand the general principles contained in the legislation, the implications of any Court orders that apply to a foster child that you are looking after and your legal responsibilities as foster carers.

There are a number of terms that you will hear Supervising Social Workers using many of which have a legal meaning. You will be surprised at how quickly you get to know what these mean. Don't be afraid to ask if people are using terms that you do not fully understand. Even lawyers have to look things up!

You may find yourself going to Court either to support a foster child or in some cases to give evidence.

We have set out the "basics" here. If you want to find out more about the legal framework there are plenty of books available or ask your Supervising Social Worker.

The Children Act of 1989 and subsequent amendments

The key principles of the 1989 Act can be summarised as follows:

The Welfare Principle

Safeguarding and promoting the welfare of children including protecting the child from harm or abuse. The child's welfare should be the "paramount" consideration of anybody dealing with a child

What is "Parental Responsibility"?

Defined in the Children Act 1989 as all the rights, duties, powers, responsibility and authority a parent has for a child or young person and their property. As children grow older, they assume greater responsibility for themselves. Parents never lose their responsibility for their child, even when they share it with the Social Services Department when the child is subject to a care order. The only exemption is when a child is adopted.

The Children Act 2004

Following the death of Victoria Climbié' the 2004 Act provided the legal underpinning for *Every Child Matters: Change for Children*. This identifies five Key Outcomes for all children:

Be Healthy

- Physically healthy
- Mentally and emotionally healthy
- Sexually healthy
- Healthy lifestyles
- Choose not to take illegal drugs

Parents, carers and families promote healthy choices

Stay Safe

- Safe from maltreatment, neglect, violence and sexual exploitation
- Safe from accidental injury and death
- Safe from bullying and discrimination
- Safe from crime and anti-social behaviour
- Have security, stability and are cared for

Parents, carers and families provide safe homes and stability

Enjoy & Achieve

- Ready for school
- Attend and enjoy school
- Achieve stretching national educational standards at primary school
- Achieve personal and social development and enjoy recreation
- Achieve stretching national educational standards at secondary school

Parents, carers and families support learning

Make a Positive Contribution

- Engage in decision making and support the community & environment
- Engage in law-abiding and positive behaviour in and out of school
- Develop positive relationships and choose not to bully and discriminate
- Develop self-confidence and successfully deal with significant life changes and challenges
- Develop enterprising behaviour

Parents, carers and families promote positive behaviour

Achieve Economic Well being

- Engage in further education, employment or training on leaving school
- Ready for employment

- Live in decent homes and sustainable communities
- Access to transport and material goods
- Live in households free from low incomes

Parents, carers and families are supported to be economically active

The legal status of children in foster care

All children and young people in foster care are the responsibility of the Local Authority from which the child or young person originates. They remain the responsibility of the local authority whilst placed with Channels and Choices Therapeutic Fostering foster carers.

Children who are “looked after”

This term is a shortening of the phrase “looked after by the Local Authority” that was introduced in the Children Act 1989. Children and young people are “looked after” if they are being cared for by the Local Authority by voluntary agreement or as a result of a Court order.

Children/young people who are “accommodated” (i.e. by voluntary agreement) Section 20 of Children Act 1989

This term refers to children/young people who are provided with accommodation by the Local Authority as a result of a voluntary agreement with parents or others with parental responsibility. Such children/young people are not usually subject to any Court orders. Young people over the age of 16 can ask to be accommodated without the agreement or consent of their parents. They can also leave accommodation if they so wish.

Implications for foster carers

- This is a voluntary agreement made with the parent(s) agreement. When a child is accommodated, the parental responsibility remains with the parents who have a right to remove the child at any time. You should work closely with the parents and consult them about decisions affecting their child.
- If parents demand to take a child back without that being part of the plan for the child, foster carers can take reasonable steps to protect the child. You should contact your Supervising Social Worker or duty officer, if necessary, the Police in an emergency.
- If it is in the best interests of an accommodated child to become subject of a Care Order, the Social Services Department can apply to the Court.

Court Orders

More than one order can be made in respect of an individual child or young person. Foster carers should be informed of any Court orders and any restrictions applying to the child or young person or contact with his/her family. In some cases you will be given a copy of the order.

The main Court orders you are likely to come across are:

Interim Care Order (Section 37 of The Children Act 1989)

An Interim Care Order gives the Court time to collect more information whilst protecting the child. The Local Authority decides where the child will live.

An Interim Care Order is made for not more than 8 weeks. Further Interim Care Orders can be made which last up to 4 weeks but they should be kept to a minimum to avoid delay in making a decision.

The child may be asked to have a medical examination or psychiatric assessment.

Implications for foster carers

- The parents may not remove the foster child without the permission of the Social Services Department.
- Usually parents will have contact with their child under interim orders.
- There may be specific restrictions or conditions attached to the order e.g. contact.

Care Order (Section 31 of The Children Act 1989)

A Care Order is usually made to protect a child from harm, abuse or neglect and states that the Social Services Department must look after the child and provide somewhere for him/her to live.

A Care Order gives Social Services parental responsibility jointly with the parents.

The Court can direct who the child should have contact with, where and what sort of contact it should be etc.

Unless overturned, the Care Order can last until the child reaches the age of 18 years of age.

The Court process leading up to the making of a Care Order is called Care Proceedings.

Implications for foster carers

- The parents may not remove the foster child without the permission of the Social Services Department.

- Children should be encouraged to see their families and friends unless the Court states otherwise.
- Foster carers should work closely with and consult parents as agreed in the plan for the child.
- Foster carers need to be aware of any specific restrictions or conditions attached to the order.

4.2 Placement policy, referral, matching & placements

Key Outcome

The responsible authority has information and support from the fostering service which it needs to facilitate an appropriate match between the carer and child, capable of meeting the child's needs and consistent with the wishes and feelings of the child, so maximising the likelihood of a stable placement.

(Standard 15 of National Minimum Standards for Fostering Services, 2011)

Placement Policy

The assessed needs of a child or young person are paramount in all placement decisions.

Channels and Choices Therapeutic Fostering will only offer a placement to a Local Authority if it believes that an appropriate match can be offered (NMS 15.1).

Channels and Choices Therapeutic Fostering uses clear criteria for matching children with carers which are recorded in the Foster Placement Agreement and provides support and training to address any gaps (NMS 15.1).

Channels and Choices Therapeutic Fostering seeks to ensure that all placement decisions are made on the basis of full information, discussion with others involved in the care of the child or young person and whenever possible, consultation with the child or young person (NMS 15.2).

Decisions about the most appropriate placement for a child or young person are made by a qualified Social Worker.

Channels and Choices Therapeutic Fostering endorses the use of a full range of Looking After Children (LAC) Documentation by placing authorities and will encourage their use whenever possible (NMS 15.2).

Channels and Choices Therapeutic Fostering endeavours, by all appropriate means, to recruit a wide range of carers from a variety of backgrounds, cultures, ethnic groups and

religions to enable the agency, as far as possible to place a child or young person with foster carers of a similar background and culture to their own.

It is not the policy of Channels and Choices Therapeutic Fostering however that the ethnic origin of a child shall automatically, or itself, take precedence over the other assessed needs of the child or young person when placement needs are being considered.

Channels and Choices Therapeutic Fostering ensures that all its foster carers, whatever their ethnic background, are able to demonstrate understanding and sensitivity to issues of race, language, culture and religion and promote the positive development of a child's identity. Training and social work support are offered to foster carers. Additional support is given when transracial, transcultural or trans community placements are made.

Channels and Choices Therapeutic Fostering ensures that the needs of children with disabilities are taken into account in the matching process and that support is given to carers to enable them to meet the specific needs of the child or young person.

Where placement requests are made in an emergency, Channels and Choices Therapeutic Fostering ensures that as far as practicable its procedures and good practice are followed even though the processes of matching and placement may happen over a short period of time.

Channels and Choices Therapeutic Fostering policy is to apply the usual fostering limit to all placements other than those where siblings are being placed together. Channels and Choices Therapeutic Fostering foster carers are generally not required to care for more than three children at any one time (Children Act 1989 Schedule 7).

The Placement Information Meeting & Placement Agreement

A Placement Agreement must be drawn up when a child or young person being looked after by the Local Authority is placed with Channels and Choices Therapeutic Fostering foster carers.

The Local Authority would also be expected to sign Medical Consent Form which gives you dedicated authority to sign for basic routine check ups with GP, Dentist etc.

This will normally be done at the Placement Information Meeting which usually takes place at the foster carer's home before or immediately after the placement is made.

The purpose of the meeting is to:

- Share information about the plan for the child or young person.
- Plan how best to meet the needs of the child or young person
- Agree routines e.g. bedtimes and allowances e.g. pocket money and savings.
- Agree schooling arrangements.
- Agree the support package.

- Agree contact arrangements.
- Plan introductions and details of the child's move to the identified foster carers.
- Share information on the day to day care of the child.

The Channels and Choices Placement Plan is signed by the Local Authority, the child or young person, the child's parent or person with paternal responsibility, the foster carers and the Channels and Choices Therapeutic Supervising Social Worker. Each participant is given a copy of the signed agreement.

The Placement Plan sets out the agreed arrangements for the care of child placed, confirmation as to what is expected of carers and the authority and what has been agreed with the child's family. It also includes information to be provided to foster carers.

Information at the start of a placement

What information should I get?

When a child or young person is placed with you, your Supervising Social Worker will provide you with details about the child which must include his/her full name, date of birth, relevant medical history, school attended, family background and legal status. You will receive a copy of the child or young person's care plan (if available) and may get copies of other relevant reports e.g. school or medical reports.

What do I do if I have not received the information?

If information takes some time to come or is inadequate do not be afraid to ask for it – you cannot do your job without full background information on the child or young person you are looking after and you should be provided with it. You should ask your Supervising Social Worker who will be in regular contact with the Social Worker for the child or young person.

Confidentiality

All information concerning the child or young person must be treated as confidential and not shared with anyone else without prior permission.

See Section 2.8 Diary and record keeping and confidentiality

What do I need to know?

Essential information required to assist the fostering task

- Full name of child - How does the child like to be known?
- Date of birth
- Home address
- Name & address of parents, other key carers and significant people in the child's life

- Child's legal status including any Court Orders/restrictions copy of any Court Order
- Reason why child is in foster care and the immediate plans
- Child's Social Worker's name and contact address and telephone number
- Health record, recent illnesses or conditions, current medication, food allergies
- Nursery or school attended and transport arrangements
- Any racial, cultural or religious needs
- Agreement as to action needed re clothes if child arrives with little clothing

Information that can be beneficial in assisting and improving the fostering task

- Family history and circumstances
- Child's recent experiences
- Preferences and wishes regarding culture and religion
- Preferences and wishes regarding favourite foods and dislikes
- Preferences, wishes and ability regarding personal care, hair care, skin care
- Usual or expected daily and bedtime routines
- Favourite and/or treasured toy or possession e.g. pillow
- Any fears or phobias

What else do I want to know? Add your own to the checklist:

Definition of Looked after children

The term Looked After Children and Young People is generally used to mean those looked after by the state according to the relevant legislation. This includes those who are subject to a care order or temporarily classed as looked after on a planned basis, official breaks or

respite care. The term is also used to describe accommodated children (S20 CA 1989) and Young People who are looked after on a voluntary basis at the request of or by agreement of their parents. Some Local Authorities or agencies will refer to these children as Children in Care.

4.3 Care planning and statutory review

Before the review

Reviewing within the 'Looked After Children' framework is seen as a process rather than a one off meeting.

Responsibility for co-ordinating the review lies with the Local Authority's Independent Reviewing Officer responsible for reviewing the child or young person. They are more commonly known as IROs. Before the review is held all the relevant information is gathered. The IRO should consult with:

- Other agencies e.g. School, health visitor etc.
- The child
- The family

The Local Authority's Social Worker should:

- Prepare the child for the review meeting
- Undertake initial negotiation/discussion re: possible future plans

When are reviews held?

- Within 4 weeks of child or young person being placed
- Within 3 months of the first review
- Then, every six months

Who attends?

The Review Meeting will be small and will be attended only by people in the child or young person's key group – the child or young person, their foster carers, Social Workers, the independent reviewing officer for the Local Authority, relevant family member(s) and any other key people who the child or young person may want to attend their review.

What happens at the review?

The purpose of the Review Meeting is to review the child or young person's care plan, to celebrate their achievements and to look forward to the next stage of development. Every effort should be made to involve the child or young person as fully as possible.

At the review meeting, the independent reviewing officer will take notes of the discussions and decisions and will have overall responsibility for the meeting.

What happens after the review?

The independent reviewing officer will complete the Review of Arrangements form which will be circulated to everyone involved in the meeting within 14 working days. If you are not happy with anything in the Review of Arrangements contact the IRO who chaired the review. They will be happy to discuss it with you and negotiate changes if necessary/appropriate.

4.4 Moving on

What happens to foster children when they leave your family?

Foster children may:

- Return to their own families
- Live with relatives e.g. grandparents
- Go into residential care
- Move into their own accommodation (older children)
- Move to another foster placement
- Be adopted

Moving on is always a time of mixed emotions

Moving on is often a positive time for child or young person as they enter a new phase of their life and you will be able to look back with satisfaction at your contribution to their development. At the same time you and your family may feel very sad to say goodbye to someone who has become part of your family.

Sometimes foster children move on because things have not worked out well. You may have found their behaviour too difficult to manage or they may need a particular kind of care which you are not able to offer them. Moves at these times may be unhappy and uncomfortable for all concerned.

It is important to make the experience of moving on as positive as possible for the young person whatever the reason for leaving your family.

Planning meetings

All moves should be carefully planned. The move and the reasons for it should be understood by foster carers, parents and children, even if everyone may not agree with the plan. In situations where the placement has broken down, you may be asked to attend a

Disruption Meeting and Channels and Choices Therapeutic Fostering may arrange for a Foster Carers' Review to be held.

Making decisions in the best interests of the child or young person

Foster carers may not be happy with a decision to return a child or young person to their own family and these occasions can be distressing for foster carers.

The decision may have been difficult to make but will be on balance the best for the child. Occasionally Social Workers have no choice because there is insufficient evidence to demonstrate that the child or young person is at risk and they have to abide by the decision of the Courts.

Saying goodbye

It can be helpful to find ways of marking the event for the child or young person. You will also want to ensure that the child takes with them all their memories of the time they spent with you e.g. photographs and life story books. See 4.7 Life Story Work.

Ways of Saying Goodbye:

- A goodbye party
- A cake
- Lighting a candle
- Goodbye cards
- A present
- A photo album
- A letter

Staying in touch

Many children you have fostered will stay in touch. Even though they no longer live in your home, you will remain very important to them.

