Children and Young People in Unregulated Placements

**SCOPE OF THIS CHAPTER**

This policy identifies the steps and planning that must be undertaken when a young person is considered for a Placement that is 'unregulated'. The policy also addresses situations where a placement with a prospective connected carer becomes unregulated.

**RELEVANT PROCEDURES**

[**Leaving Care and Transition Procedure**](https://hullchserv.proceduresonline.com/p_leave_care_trans.html)

[**Placements with Connected Persons (formerly Family and Friends) Procedure**](https://hullchserv.proceduresonline.com/p_place_fam_friend.html)

[**Court Directed Placements made under Section 38(6) Procedure**](https://hullchserv.proceduresonline.com/p_court_placement.html)

**RELEVANT GUIDANCE**

[**The Children Act 1989 Guidance and Regulations - Volume 2: Care Planning, Placement and Case Review**](https://www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review)

[**The Children (Leaving Care) Act 2000**](http://www.legislation.gov.uk/ukpga/2000/35/contents)

[**The Care Standards Act 2000**](http://www.legislation.gov.uk/ukpga/2000/14/contents)

[**Notification of a Child in an Unregulated Placement**](https://hullchserv.proceduresonline.com/p_ch_yp_unreg.html)

**1. Placement of Children in Unregulated Placements**

There will be some circumstances when, despite efforts to identify an appropriately matched Ofsted regulated placement, consideration will need to be given to placing a child/young person in an unregulated placement.

There will also be instances where a placement with connected carers becomes unregulated. In such circumstances, the Unlawful Placement Request needs to be completed. Please note that, before a decision is made to place a child with a prospective carer, a viability assessment must be completed and approval given by the Agency Decision Maker. A child cannot be deemed Looked After unless a Regulation 24 agreement has been made.

The request to place a child/young person in an unregulated placement needs to be considered by the London Borough Tower Hamlets Director of Children's Services.

The Unlawful Placement Request will provide background information should be completed by the child's social worker, and the request authorised by the Director of Children's Services, in consultation with the Head of Service for Regulated Services and Resources.

Children and young people must be seen in any unregulated placement at a minimum of weekly and reviewed by the Head of Service and Group Manager on a monthly basis.

Ofsted must be notified about placement of children under the age of 16 in an Ofsted unregulated placement.

The placement can last for duration of 28 days. A review of the arrangements must be completed by day 20 to ensure that a suitable regulated placement has been identified and consider rational for the child in the current placement.

**2. Children Living with Family & Friends (Connected Carers)**

Before a child is placed with relative or family friends, a viability assessment must be completed as a matter of urgency and signed off by the Fostering Agency Decision Maker. The assessment will be completed and presented to Fostering Panel within 16 weeks. To enable the placement to remain regulated, consideration will be made to extend the placement under Regulation 25 of the Care Planning, Placement and Case Review Regulations 2010 (amended in 2015) if there are delays in completion of the fostering assessment.

If information from Stage 2 of the assessment process results in the Agency Decision Maker giving a Qualifying Determination that they propose not to approve the applicants as foster carers, the applicant will be advised that if they wish to challenge the decision, they have a right to submit representations within 28 days of the original written notification of the decision to the Agency Decision Maker. In addition, as an alternative, they may exercise the right to apply to the Secretary of State to request a review of the decision by an Independent Review Panel under the **[Independent Review Mechanism](https://www.gov.uk/government/organisations/independent-review-mechanism" \t "_blank)**. Any such application must be made in writing within 28 days of the decision and supported by reasons.

During that period, the local authority should review whether placement with the connected person is still the most appropriate placement, and consider extending temporary approval under Regulation 25. If the period of temporary approval and of any extension to that period expires and the connected person has not been approved as a local authority foster carer in accordance with the 2002 Regulations, the local authority will terminate the placement after first making other arrangements for the child's accommodation. Suitability of the placement will need to be reviewed on a weekly basis by the Head of Service.

The circumstances in which directions under Section 38(6) are made will vary but typically involve situations in which the court wishes to enforce a placement that the local authority does not feel able to endorse via Regulation 24. A Section 38(6) direction can only be made where a child is subject to an Interim Care Order and is therefore always a temporary position pending assessment outcome. If a child is subject to Section 38(6), then Regulation 24 does not apply and the carer is not temporarily approved by the local authority as a foster carer. The suitability of placement must be reviewed by the Head of Service on a weekly basis to provide assurances that the child is safe. The placement is regulated by the court and only the court can make the decision to end the placement/assessment however the police may still exercise their protective powers under S46 Children Act 1989 if they have reasonable cause to believe that a child/children would otherwise be likely to suffer significant harm in a court directed placement. The Head of Service must always alert the Assistant Director for Safeguarding Children.

**3. Children and Young People placed in Ofsted Unregulated Placements**

The assessment of the child's needs to inform their Care or Pathway Plan may conclude that for some children these needs will best be met by a placement in 'other arrangements' (Regulation 27, Care Planning, Placement and Case Review Regulations 2010).

These placements will not be regulated and as a result will not be inspected by Ofsted. In these circumstances, it is essential that the child's needs are matched to the services provided by the placement.

Some unregulated settings provide suitable placements for Looked After Children. In every case, before making the placement the local authority must establish that the accommodation is suitable.

Suitable accommodation is accommodation:

* Which, so far as reasonably practicable, is suitable for the child in light of their needs, including their health needs;
* In respect of which the responsible authority has satisfied itself as to the character and suitability of the landlord or other provider;
* Which complies with health and safety requirements related to rented accommodation; and
* In respect of which the responsible authority has, so far as reasonably practicable, taken into account the child's:
  + Wishes and feelings; and
  + Education, training or employment needs.

The 2010 Regulations set out factors that must be considered in determining whether accommodation is suitable for individual children (Schedule 6, Care Planning, Placement and Case Review Regulations 2010). These are set out below:

**Facilities and Services Provided**

Consideration of facilities and services will be particularly relevant where the young person is not placed in a domestic setting, (i.e. with a host family as part of a supported lodgings arrangement or where they choose to live with family or friends), but is placed in accommodation where they are independent or sharing the occupancy. This is particularly relevant to those young people aged 16 and above. London Borough Tower Hamlets Council will need to take the following issues into account:

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

**Suitability of Accommodation**

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

**Safety**

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

The provider possesses a current up to date gas safety certificate, that any fire detection equipment works and that if there was a fire, the property could be evacuated safely;

The electrical wiring has been checked within the last 5 years, and any electrical appliances in the property must be safe; and

The accommodation is secure, (e.g. is there a burglar alarm; locks on windows; mortice locks), and the local authority knows whether the previous tenant has returned all their keys or that the locks have been changed.

This will be undertaken by the Commissioning Team in conjunction with the local authority Housing Department. The provider should have all the necessary buildings and liability insurance cover for the accommodation.

**Location**

There should be adequate transport links between the property and the young person's place of education, training or employment and the accommodation should be reasonably accessible to people in the young person's personal support network, health and leisure services and other amenities.

The area where the property is located should be thought to be generally safe at night. Where the assessment of the property's suitability for the individual young person suggests that there are concerns about the safety of the area where the property is situated, it will be even more important to ensure that the accommodation is secure.

**Support**

Where the young person is placed in accommodation that comes with housing related support, then the support to be provided must contribute to responding to their assessed needs. Similarly, where the young person is placed in 'supported lodgings', the support to be provided must be carefully matched to his/her needs.

London Borough Tower Hamlets Council should establish how the accommodation provider has been selected, assessed and trained; and how they are supervised. It will be important that the suitability of accommodation providers is kept under regular review.

London Borough Tower Hamlets will need to take steps to be satisfied that the assessment and selection process has involved proper independent scrutiny, involving safeguarding checks and checks on the provider's financial viability, to establish that the provider has the necessary skills and competencies to respond to the needs of the young person in order to achieve the goals agreed as part of their care plan.

**The Financial Commitments Involved for the Young Person and their Affordability**

If the young person is expected to be able to remain in the property after they reach the age of 18, consideration should also be given to these elements of affordability in the light of the young person's likely financial situation once they are no longer maintained by the local authority. This will involve liaising with the local housing benefit department regarding the levels of housing benefit or local housing allowance likely to be available if the young person needs help with paying their rent.

London Borough Tower Hamlets Council must establish the young person's views about the suitability of any accommodation (Schedule 6, paragraph (2), Care Planning, Placement and Case Review Regulations 2010) young people should be familiar with how their needs have been assessed and how this assessment has informed the provision of services and support set out in their Care and Pathway Plan.

Discussions between the young person and their social worker about this extremely important issue must make sure that the young person appreciates the implications of their accommodation and recognises they are receiving support from the local authority. They must be offered sufficient information, support and advice so that they understand any financial commitments and have access to an advocate.

London Borough Tower Hamlets Council will make sure that the young person knows what they should do if their financial circumstances change or if there is an increase in the costs of the accommodation. This essential information must be recorded in the young person's Pathway Plan.

The factors outlined above are not intended to limit choice for young people who wish to and are ready to move to more independent accommodation as part of preparing them for the transition to adult responsibilities. However, these factors outline the issues that will need to be considered at both a strategic and an individual level whenever commissioning unregulated accommodation for this group. Attention to these factors will assist London Borough Tower Hamlets Council and out partner agencies to be responsible corporate parents by ensuring that whenever children are placed in 'other arrangements' they must be provided with the necessary stability and support.