



**WOKINGHAM
BOROUGH COUNCIL**

Fostering Panel

Terms of Reference and Procedures

Fostering Panel Terms of Reference and Procedures

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Contents

1. Introduction.....	3
2. Statutory framework.....	3
3. Function of the Fostering Panel:.....	6
4. Operation of the Fostering Panels.....	8
5. Role of Professional / Panel Adviser:.....	11
6. Decision Making.....	11
7. Implementation.....	12
8. Review.....	12
Appendix A: Protocol for Fostering Panel Members.....	13
Appendix B: Guidelines for attendance at Fostering Panel by prospective and approved Carers.	15
Appendix C: Booking Panel & Submitting Reports.....	17
Appendix D: Arrangements - Information to be presented to the Panel Advisor.....	19
Appendix E: The Protection of Children Act 1999.....	20

Fostering Panel Terms of Reference and Procedures

1. Introduction

- 1.1 The framework and responsibilities of the Fostering Panel (the Panel) are set out in:
- the Fostering Services Regulations 2011 (Regulation 23, 24 and 25), with amendments of July 2013
 - Fostering Services National Minimum Standards (Standard 14)
 - and Children Act 1989 Guidance and Regulations Volume 4: Fostering Services (Chapter 5.1 – 5.25)
- 1.2 Under the current regulations a fostering service must constitute one or more Fostering Panels, as necessary. Given the volume of fostering work undertaken by the local authority, Wokingham Borough Council currently has one Fostering Panel established.
- 1.3 The key tasks of the Panel are to:
- meet its responsibilities as set out in the relevant regulations, guidance and standards
 - ensure that its recommendations contribute to good quality decisions in respect of:
 - the approval of new applicants
 - the continued approval of Foster Carers
 - whether long term fostering is in the best interest of any particular child and, the matching of children to appropriate long term Foster Carers.
 - the conduct of assessments
- and to always:
- act in the best interests of children and young people placed in foster care by the authority.
 - promote and safeguard the welfare of children in the care of the authority.
- 1.4 The Panel's composition and procedures must ensure that its recommendations are independent of the Directorate of Children and Young People Services decisions on fostering.

2. Statutory framework

- 2.1 Wokingham Borough Council's Fostering Service must maintain a list of persons who are considered to be suitable for membership of the Fostering Panel (The Central List). There is no requirement for a Fostering Panel to have fixed membership, although the ability of the Panel to function cohesively and with a level of consistency must be taken into account. The authority considers that this is best achieved by having a core membership. A person who is included on the Central List may at any time ask to be removed from the Central List by giving one month's notice in writing. Each panel meeting will require a quorum drawn from this pool.

Fostering Panel Terms of Reference and Procedures

- 2.2 All panel members will be required to have a current Disclosure and Barring Service enhanced check and to co-operate with any further checks being taken up as may be deemed necessary. Where an applicant is an employee of the council and has an enhanced DBS check, this will be satisfactory for membership. All panel members will be required to provide two personal referees able to provide a reference as to their suitability to serve on the Panel. Individuals will not be allowed to become a panel member until the checks and references have been satisfactorily completed and a confidentiality bond signed.

Panels are no longer required to have a fixed membership or maximum number of members although a core membership with a range of knowledge, experience and ability is a requirement.

- 2.3 In accordance with FSR 2011 and subsequent amendments. Panel membership will include the following:

- A Panel Chair who has the necessary skills and experience and who is independent of the fostering service provider.
- One or two persons who may act as chair if the person appointed to chair the panel is absent or that office is vacant (vice chairs).

- Two social workers employed by Wokingham Borough Council who have at least three years relevant post qualifying experience in these areas:
 - one with children and families social work experience
 - one with experience in the provision of a fostering service
 - at least one social worker representative should sit on the panel at any one time.

- Representation of independent members:

The authority recognises that Independent Panel Members can contribute a wealth of knowledge and experience to the Panel and it is preferable that these Members include:

 - a person who is, or has been within the last two years, a Foster Carer for another Fostering Service Provider

and where possible:

- someone with experience of being in foster care or a person whose child has, at some time, been placed with Foster Carers

and:

- someone with expertise in education
- someone with expertise in health
- an Elected Member of the Borough Council

Fostering Panel Terms of Reference and Procedures

A person may not be appointed as an independent member of the Fostering Panel if he/she is:

- a Foster Carer approved by Wokingham Borough Council
- employed by Wokingham Borough Council's Fostering Service
- concerned in the management of the Authority's Fostering Service
- an Elected Member of Wokingham Borough Council

2.4 The Fostering Service will ensure that a member of the Panel is identified to hold the position of Vice Chair, to act as Chair if the appointed Chair is absent or if the post is vacant.

2.5 The Fostering Service will make every effort to ensure that the Fostering Panel reflects the communities that it serves.

2.6 Before appointing any panel member or including him/her on the Central List, the fostering service must provide the applicant with written information about the performance objectives for panel members, including:

- the requirement for panel members to participate in induction and training

and:

- requirements around safeguarding the confidentiality of records and information submitted to the Panel.

2.7 All prospective panel members will receive a letter of appointment, detailing their duties and responsibilities and confirming their term of office. All newly appointed Panel members **must** sign an acceptance form to record their agreement to the panel member objectives.

2.8 The regulations do not prescribe a maximum or minimum tenure for Panel members. However, tenure of office will usually be considered to be for a term of three years initially, with the option of members then serving for up to a further three years, or more, if the balance of knowledge and experience on the Panel suggests this to be appropriate. The fostering service will aim to plan and manage the turnover of panel members in such a way as to avoid the need to replace a large proportion of the established members in any one year.

2.9 Each panel member's performance, including that of the Panel Chair, will be reviewed annually against agreed performance objectives.

2.10 The authority's Fostering Decision Maker will review the performance of the Panel Chair, and for this purpose may attend a proportion of Panel meetings but only as an observer. Views about the Panel Chair's performance will be sought from other panel members and from those who attend panel meetings, such as prospective Foster Carers and social workers who present reports to the Panel.

Fostering Panel Terms of Reference and Procedures

- 2.11 For all other panel members, the panel Chair and the Panel Adviser will jointly conduct their performance reviews.
- 2.12 Panel Members may resign at any time by giving one month's notice in writing to the Panel Adviser or the Team Manager Family Placement.
- 2.13 If the Family Placement Management Team or the Fostering Decision Maker is of the opinion that any Panel member is unsuitable, or unable to remain in office then his or her office will be terminated by the Panel Adviser or the Team Manager Family Placement giving the individual concerned one months notice in writing. (See Appendix A – Protocol for Fostering Panel Members.)
- 2.14 Appointment of any new Chair to the Fostering Panel will always involve a formal interview process, including the Head of Children's Social Care and Safeguarding (the Agency Decision Maker) and the Service Manager (Resources).
- 2.15 The Elected Member representative(s) will be appointed by the Council at the Annual General Meeting or at any other meeting when an elected member vacancy arises.
- 2.16 Decisions around the appointment of other Panel members, including:
- Social workers
 - Independent members

will be made by the Service Manager, Resources, in consultation with the Panel Adviser and the Team Manager Family Placement.

- 2.17 When a vacancy not prescribed by the Regulations arises, the Director of Children's Services, in consultation with the Head of Children's Social Care and Safeguarding (the Agency Decision Maker) will decide how to fill the vacancy.

3. Function of the Fostering Panel:

- 3.1 The Fostering Panel will not make decisions but will make recommendations to the Agency Decision Maker on behalf of the fostering service.
- 3.2 The following cases **must** be referred to the Fostering Panel:
- all applications for approval as Foster Carers (this includes all types of Foster Carers, Supported Lodgings Carers and Short-breaks Carers)
 - each approved Carer's first annual review and subsequently at least one review in each three year period (i.e. every third review)
 - any Foster Carer's review where the Independent Fostering Reviewing Officer is recommending a change in the terms of the Carer's approval

Fostering Panel Terms of Reference and Procedures

- any Foster Carer's review where a termination of approval is recommended
- any Foster Carer's review where the review was completed following receipt of a significant allegation or complaint
- any Foster Carer's review where the review was completed following the fostering service becoming aware of and investigating a safeguarding issue about a Foster Carer

The Panel should in each case recommend:

- whether or not the Carer/s remain suitable to be approved as Foster Carers

- whether the terms of approval remain appropriate, and if not, how these should be amended.

- reports on whether long term fostering is in the best interests of a particular child.
- matching reports, proposing that a particular Foster Carer is suitable to meet the needs of a particular child for whom placement with long term/permanent Foster Carers is the agreed Care Plan.
- reports on situations where Foster Carers have been granted temporary variation to their normal terms of approval, in order for a particular child to be placed in an emergency.
- notifications of Foster Carers who have resigned and the reasons for the resignation.
- any exemptions from the usual fostering limit for monitoring purposes
- written representations from applicants who have been notified in writing that they are not deemed to be suitable to be approved as a Foster Carer. Where written representation is received the Panel **must** consider the case again in the light of the representations and make further recommendations to the Fostering Decision Maker.
- written representations from existing Foster Carers who have been notified in writing that the Fostering Service Provider is no longer satisfied that the Carer(s) and his/her household continue to be suitable, or that the terms of their approval are appropriate. Where such written representation is received the Panel **must** consider the case again in the light of the representations received and make further recommendations to the Fostering Decision Maker.
- reports from the Independent Reviewing Mechanism, where a prospective Foster Carer has sought to challenge the qualifying determination of the Fostering Decision Maker.

Fostering Panel Terms of Reference and Procedures

- 3.3. The Fostering Panel will provide a quality assurance function in relation to the assessment process that prospective Foster Carers undergo, by monitoring the work of the assessors, providing feedback, identifying problems and promoting consistency across the service to ensure that all prospective and approved Carers are subject to the same fair, thorough and rigorous approach.
- 3.4 The Fostering Panel will receive an annual report on the activity of the Panel, prepared by the Panel Adviser in consultation with the Chair. This will include details of:
- the number of Foster Carers approved or re-approved; their ethnicity, family structure and geographical location
 - the work of the Panel
 - the assessed strengths and weaknesses of the current provision
 - the quality of the work presented to the Panel
 - any specific issues arising for the Panel over the past year
 - recommendations regarding the future operation of the Panel.
- 3.5 The Fostering Panel will offer consultation and guidance on cases and, where appropriate, about other fostering matters.
- 3.6 The Fostering Panel will contribute to the setting and monitoring of agency standards, policies, procedures and practice.
- 3.7 All Fostering Panel Members **must** be committed to anti-discriminatory practice and carry out their duties in accordance with Wokingham Borough Council's equality and diversity policies. No prospective or approved Carers will be discriminated against on the ground of gender, race, religion, sexual orientation, disability or age.
- 3.8 The Fostering Panel **will always** ensure that the welfare of the child is paramount in all its considerations and recommendations.

4. Operation of the Fostering Panels

- 4.1 The Wokingham Borough Council Fostering Service will provide a Panel Administrator who will ensure the effective administration of the Fostering Panels, including the timely distribution of Panel papers and preparation of the minutes. Panel members must receive panel reports at least five days in advance of the panel meeting.
- 4.2 Quorum: A Fostering Panel shall conduct no business unless at least five Members are present, including:
- the Chair or Vice Chair
 - at least one social worker who has a minimum of three years of relevant post-qualifying experience
 - at least three other members

Fostering Panel Terms of Reference and Procedures

- in the event that the Chair is not present, a member (who could be one of the people listed above) who is independent of the fostering service.
- 4.3 If it is clear either before or during a Panel that specialist advice is needed to help the Panel to reach a recommendation, then the Chair will liaise with the Panel Adviser or identify and arrange for that advice to be made available. This may require the item to be adjourned to a later Panel date.
- 4.4. Attendance of non-panel Members at Panel: the following people will be expected to attend the relevant Panel for the appropriate agenda item:
- the assessing/supervising social worker
 - the child's social worker, where appropriate, and his/her manager, where possible
 - anyone invited to provide specialist advice.

Observers (e.g. as an induction opportunity for new social workers or other professionals) will be welcome to attend Panel meetings by agreement with the Chair and dependent upon agreeing to maintain strict confidentiality. There should be the maximum of two observers at any one panel).

- 4.5 The right of Applicants and approved Carers to attend the Fostering Panel: people who have applied to become Foster Carers will be invited to attend Panel when their applications are to be considered. Applicants are able to invite a Supporter to attend the Foster Panel with them should they choose to do so (however not a legal representative).

Approved Carers will be invited to attend the Panel when any review of their approval is to be considered.

- 4.6 Process for reaching a recommendation:
- The Chair will ensure that Panel Members are clear about the meaning of legal, medical, social work and other specialist terms.
 - During the meeting the Chair will ensure that each Panel member has an opportunity to raise questions or offer comments on each matter to be considered.
 - Each Panel member will be asked whether or not she/he supports the proposed recommendation. There will be no process for formal voting, but the Chair should facilitate the Panel reaching a consensus.
 - An agreement by all Panel Members may not always be possible. An evenly divided Panel will be taken to suggest that there is sufficient doubt to prevent the Panel making a confident recommendation. At such times the Panel's recommendation **must** favour the best interest of the child. Where there is a serious difference of opinion between Panel members, the Chair may defer the recommendation for more information to be made available.
 - Views of dissenting panel members should be clearly minuted
 - The Chair will be responsible for ensuring that the Panel is clear about the reasons for its recommendations.

Fostering Panel Terms of Reference and Procedures

- The Chair will convey the discussion, the recommendations, the reason for them and any dissent to the Agency Decision Maker.
This will be done as soon as possible after the meeting, but in any case within five working days.
- 4.7 All Panel Members' papers must be returned to the Panel Administrator immediately after the meeting.
- 4.8 A written record of the Panel meeting, the recommendations and the reasons for them, will be prepared as soon as possible after the meeting.
- 4.9 The minutes will be circulated:-
- within two working days to the Panel Advisor and Chair of the Panel
 - within four working days to panel members
 - The Agency Decision Maker should receive the minutes within six working days
- 4.10 Appropriate extracts from the minutes will be circulated to:
- The homestudy worker or Supervising Social Worker (for placement on the Foster Carer's file).
 - The child's social worker – when long term fostering or matching was considered (for inclusion on the child's in-care file).
- 4.11 The final set of minutes will be agreed by all Panel members and the Chair and then provided to Agency Decision Maker for a decision. The minutes will be agreed by the Chair via email and subsequently signed at the next Panel meeting.
- 4.12 Conflict of interest: if on receipt of papers a Panel member realises that she/he has direct knowledge of a case being presented to the Panel, she/he **must** declare this information to the Panel Administrator in order that the latter can determine whether or not the Panel will be quorate if the member is unable to take part in the discussion.
- If during the course of the Panel discussion about a family, a Panel member realises that she/he has prior knowledge, this must also be declared.
- 4.13 The Chair will decide whether a declared interest should debar that Panel member from the discussion relating to the case and/or participating in the Panel recommendations.

5. Role of Professional / Panel Adviser:

- 5.1 The Professional Adviser to the Panel is a Fostering Manager. S/he is **not** a member of the Panel and does not take part in reaching a recommendation.

The role is to assist in:

- Co-ordinating and agreeing the agenda.
- Advise the Chair and Members of the Panel as required on policy, practice and procedure.
- Take responsibility for ensuring that all Panel reports are comprehensive and of a suitable standard to be presented to the Panel.
- Oversee the administrative arrangements for the Panel and ensure that they work effectively.
- Provide panel feedback to the Service on practice issues
- Arrange the induction and training of central list members

6. Decision Making

- 6.1. All decisions regarding the approval or continuing approval of Wokingham Borough Foster Carers rest with the Agency Decision Maker, based on the recommendations of the Fostering Panel.
- 6.2 The Regulations allow for the Fostering Provider to have more than one Agency Decision Maker but she/he may not then delegate her/his authority to another person. Wokingham Borough Council Fostering Service has three Agency Decision Makers, namely:
- Head of Safeguarding and Social Care
 - Service Manager Safeguarding
 - Assistant Director, Children's Services (Social Care and Early Help)
- 6.3 The Regulations require that an Agency Decision Maker must be a senior person within the fostering service, and has been qualified as a social worker with at least three years post-qualifying experience in childcare social work and a working knowledge of childcare law and practice.
- 6.4 Agency decisions will be made at a separate meeting from the Panel and within seven working days of the Agency Decision Maker receiving the final set of minutes. If there is a delay in the Agency Decision Maker reaching the decision, the reasons for this will be communicated to the applicants.
- 6.5 The Agency Decision Maker will satisfy her/himself that the Fostering Services Regulations and Wokingham Borough Council's procedures have been met/followed.
- 6.6 The Agency decision must be recorded in the applicant/s' or Foster Carer/s' files and the applicant/s or Carer/s will be notified orally within two working days of the decision being

Fostering Panel Terms of Reference and Procedures

made, and then in writing within five working days. Where the application is approved the letter to the Carer/s will specify the terms of their approval.

- 6.7 If the Agency deems an applicant to be unsuitable to be a Carer or that an existing Carer is to have her/his approval terminated, the applicant or Carer will be notified of this decision in writing, within 28 days of when the Panel met. The letter will detail the reasons why approval has not been given.
- 6.8 A decision will be taken at this point as to whether the Foster Carer/s need to be referred to the Secretary of State for consideration of inclusion in the Protection of Children Act List (see Appendix E).
- 6.9 The applicant/s will be invited to submit any written representations that they wish to make to the Agency Decision Maker within 28 days of the date of the notice, **or** to make an application to the Independent Reviewing Mechanism for an Independent Review.
- 6.10 If no representations are made, the agency will confirm its decision and notify the applicant/s of the decision in writing.
- 6.11 All decisions about applicants will be made within eight months of the receipt of their application, in line with Regulations.
- 6.12 Variations or exemptions to a Foster Carer's approval will be agreed by the nominated Service Manager (Resources) and will be limited to six days. Following this time the Regulations require that the child/young person is moved or an assessment of the Carer presented to the Fostering Panel. An emergency Panel may need to be convened.
- 6.13 Exemption to the usual fostering limit of three children can only be made by the Local Authority in which that Carer resides. Therefore any requests from other local authorities will need to be agreed by the nominated person in 6.12 above.

7. Implementation

- 7.1 These Procedures and Terms of Reference form part of Wokingham Borough Council Children's Services, electronic procedures and as such will be part of Tri-x procedures online.

It is the responsibility of Team Managers to ensure that their staff are appropriately aware of this (Guidance/Policy/Procedure) and ensure that its implementation is monitored as part of the Supervision process.

8. Review

- 8.1 The Service Manager (Resources) will be responsible for reviewing the Terms of Reference and Panel Procedures.

Appendix A: Protocol for Fostering Panel Members

Introduction:

This protocol forms part of Wokingham Borough Council's Fostering Panel Procedures and Terms of Reference. It provides guidance to Panel members and outlines the expectations of the Authority as the Fostering Service Provider.

The expectations of Panel members:

1. Panel members will be expected to sign an agreement to keep confidential all information acquired as part of that role.
2. If a Panel member has any knowledge, either in a personal or a professional capacity, of a case under consideration she/he is expected to inform the Panel Administrator as soon as possible. Ideally, this should be prior to the meeting so that the Panel Administrator can determine whether the Panel will be quorate for this item.
3. It is expected that all Panel members will attend a minimum of 75% of Panel meetings per year.
4. Panel members are expected to have read the Panel papers carefully before each Panel meeting and be prepared to contribute to the Panel discussion and to reach a consensus recommendation.
5. The Panel papers should be left with the Panel Administrator immediately after the meeting. If in the event a Panel member receives paperwork and then subsequently is unable to attend the relevant Panel, she/he is expected to shred the paperwork received or to return the full set of Papers to the Panel Administrator, within 24 hours of when the Panel is held.
6. Panel members are expected to read and return the minutes to the Panel Administrator with 48 hours of receipt.
7. Panel members are expected to inform the Panel Advisor if, during their term of office, they have been convicted of or cautioned for any criminal offence, or if criminal proceedings are pending, or they are the subject of a police investigation.
8. Panel members are expected to make every effort to attend Panel training.
9. Panel members are expected to be rigorous in their examination of the issues relevant to each case being considered by the Panel. However, it needs to be recognised that attendance at Panel meetings may be seen as intimidating by social workers and Carers if the approach that they encounter is unacceptably challenging. This will then undermine the ability of the Panel to examine the issues in as open and fair a way as possible.

Fostering Panel Terms of Reference and Procedures

10. Panel members are expected to be committed to anti-discriminatory practice and to consider each case on its own merits.
11. If there are concerns about a Panel member's behaviour or conduct in the Panel, the Chair will discuss the issues in private with the Panel member concerned. If the concerns cannot be resolved informally, the matter will be formally referred to the Service Manager - Resources as the Fostering Service Provider, for further discussion and consideration. If the issues remain unresolved, the Service Manager will put in writing the reasons why the Panel member's appointment is to be terminated.

Appendix B: Guidelines for attendance at Fostering Panel by prospective and approved Carers.

Before the prospective or approved Carer(s) join the Panel:

1. The homestudy worker or Supervising Social Worker should have prepared the prospective/approved Carer/s for the Panel. This should include describing the room and seating layout and giving them details of the membership of the Panel and the likely process of the Panel meeting.
2. New applicants should also have received a leaflet containing this information. Applicants and existing Carers should be told that they have the right to ask questions of the Panel, as well as to offer further information.
3. Panel members must have read the reports beforehand and identified the areas that require further exploration.

Panel Members should give comments and identify the areas to be discussed when the social worker/s and prospective/approved Carer/s are present.

4. The Panel Chair will confirm the points of clarification that have been identified and which of the Panel members will raise these with the social worker/s or the applicant/s or Carer/s.
5. The Panel Chair will go out to meet the prospective or approved Carer/s and the social worker/s and invite them to join the Panel.

After the prospective or approved Carer(s) join the Panel:

6. The Panel Chair should facilitate the introduction of all Panel members present and given an explanation of the Panel process to the prospective/approved Carer/s and seek their understanding.
7. The Panel Chair should ensure that all of those attending the Panel are aware of and understand the issue of confidentiality.
8. The Panel Chair should ensure that all of those attending the Panel have an equal opportunity to speak.
9. The Chair should invite the prospective/approved Carer/s to add anything that they wish to contribute to the Panel's discussion/consideration at this stage.
10. The Chair should then explain that the Panel members have read the reports and have questions for clarification.
11. The Chair should make introductory comments about the reports provided, highlighting the positives, and should ask questions as appropriate and invite other Panel members to do so.

Fostering Panel Terms of Reference and Procedures

12. The Chair should bring the discussion to a conclusion, explaining to the prospective/approved Carer/s that the Panel has a recommending role and that the final decision will be taken by the Agency Decision Maker in due course. He/she should inform the applicant/Carer/s of when they will be informed of the decisions. The Chair must thank the prospective/approved Carer/s and the social worker/s for attending and ask the worker/s to accompany the prospective/ approved Carer/s from the meeting.
13. The Chair should agree with the Panel members what their recommendation is and the reasons for it, specifying the recommended terms of approval or re-approval.
14. The Chair should inform the applicant/s or Carer/s and the social worker/s of the Panel's recommendation.

Appendix C: Booking Panel & Submitting Reports

Arrangements for Booking the Fostering Panel and submitting Reports

1. The presenting worker and her/his Manager should agree a date for the case to be presented to the Panel.
2. The presenting worker should book the date (by phone, memo or email) with the Panel Administrator and inform her if a particular Panel slot is requested.
3. Any reports to be considered by the Panel must be submitted to the Fostering Panel Panel Adviser for quality assuring, four weeks prior to the Panel Meeting. They will then be submitted to the Service Manager – Resources, two weeks prior to the Panel Meeting.
4. The final version of the reports must be submitted to the Panel Administrator at least two weeks prior to the Panel Meeting. All reports need to be read and signed by the prospective or approved Carer/s involved (where appropriate) and the relevant social worker and Team Manager.
5. The Panel Administrator will liaise with the Panel Adviser and/or the Team Manager, Family Placement regarding the agenda and compile the agenda for the Panel meeting at least 10 working days before the meeting.
6. The agenda and reports will be sent out to all Panel Members at least 10 working days prior to the Panel Meeting.
7. Notification confirming the date, time and venue of each item will be sent to the appropriate worker with a copy of the Panel agenda.
8. The presenting social worker should inform the prospective/approved Carer/s of the date, time and venue of the Panel and the Panel procedure. A letter will also be sent to the prospective/approved Carer/s confirming this information.
9. The time allowed for consideration of different Panel items will usually be:
 - the approval of new Carers – 30 minutes
 - Foster Carer/s' Reviews – 20 minutes
 - 'Decision to place' and proposed 'matches' – 30 minutes.
10. After the Panel Meeting the Panel Administrator will produce the Panel minutes within 48 hours and then forward them to the Panel Advisor who will return them within 48 hours along with any changes or amendments. The minutes will then be sent to the Panel Chair who will return them within 48 hours. The Panel Administrator will then send the minutes out to all Panel members who will reply by email either confirming them as correct or requesting an adjustment. If changes are requested, the minutes will be re-sent to the

Fostering Panel Terms of Reference and Procedures

Panel Chair within 48 hours for final approval. The minutes will be sent as a password protected document to avoid the delays inherent in sending and receiving paper copies. The final set of minutes will be agreed electronically by the Panel Chair prior to them being submitted to the Agency Decision Maker.

11. The Agency Decision Maker will return her/his written decisions to the Panel Administrator within seven working days of receiving the final set of minutes.
12. Following the decision, the homestudy worker or Supervising Social Worker will notify the Foster Carer/s of the outcome, orally within two working days, and a letter will be sent on behalf of the Agency Decision Maker to the individual/s involved (Foster Carer/s) confirming the outcome of the Panel. The Panel Administrator will be responsible for sending out any letters to Carers that are required, within five working days, using a standard format or drafting a letter as necessary.

Any letters to a child's birth parent/s will be the responsibility of the child's social worker who will receive the Agency Decision Maker's outcome from the Panel Administrator and who will be expected to send out a letter in her/his name.

13. A copy of the Panel minutes and of the letter of approval / re-approval / termination of approval should be placed on the Carer/s' electronic file by the Panel Administrator.
14. The Panel Administrator **must** maintain a Panel File containing a copy of all minutes and Panel reports.

Fostering Panel Terms of Reference and Procedures

Appendix D: Arrangements - Information to be presented to the Panel Advisor

At the conclusion of the assessment stage all the Panel documentation should be collated including:-

1. Front Sheet.
2. The Application Form.
3. Summary of the Social Worker's recommendation.
4. Referees' interview reports.
5. Responses to all checks.
6. Where applicable a medical statement from the Medical Advisor (for Panel Chair only).
7. Records of interviews and preparation training.
8. Assessment report.
9. Information from other assessment tools (e.g. portfolio/observations etc).
10. Health and Safety checklist.
11. Dog and Pet Assessment Form if applicable.
12. Payment for Skills Audit Form if applicable.

Appendix E: The Protection of Children Act 1999

Introduction

The Protection of Children Act 1999

1. Introduction:

- 1.1. The Protection of Children Act (1999) was an important step towards the Government's aim of establishing the framework for a coherent cross sector scheme for identifying those people considered to be unsuitable to work with children.
- 1.2 This act enhances significantly the level of protection for children. The Act emphasises the paramount importance that all organisations entrusted with the care of children practice a full range of pre-employment checks. This includes interviews, the full investigation of an applicant's employment history and taking up references. This Act equally applies to Fostering Services and includes Foster Carers.

2. The Main Provisions of the Act:

- 2.1 The Act makes four principal changes to the law:-
 - It places the existing Department of Health Consultancy Service Index (a list of people considered to be unsuitable to work with children) onto a statutory basis. It then provides for names to be referred to this newly created Protection of Children Act List, and also a new right of appeal to a new tribunal against inclusion on the Protection of Children Act List (and also inclusion on List 99). It also extends the scheme to health care services provided to children.
 - It amends s218 of the Education Reform Act 1988 to enable the Department of Education and Employment to identify people who are put on List 99 because they are not fit and proper persons to work with children.
 - It amends Part V of the Police Act 1997 to enable the Criminal Records Bureau to disclose information about people who are included on the Protection of Children Act List or List 99 along with their criminal records. In this way the Act provides for a "one stop shop" system of checking persons seeking to work with children.
 - It requires child care organisations (as defined in the Act) proposing to employ someone in a childcare position (as defined) to ensure that individuals are checked through the "one stop shop" against the Protection of Children Act List and the relevant part of List 99 and not to employ anyone who is included on either list.
- 2.2 The Act also contains other provisions, the most important of which are:-
 - To enable organisations (other than child care organisations as defined within the Act) to refer names to the Protection of Children Act List.
 - To permit the Secretary of State to consider the transfer of names currently held on the DoH Consultancy Service Index to be transferred to the Protection of Children Act List.

Fostering Panel Terms of Reference and Procedures

- To allow organisations to access the new Protection of Children Act List and List 99 without first going through the Criminal Records Bureau until such time as the “one stop shop” comes into operation within the Bureau.

3. The Application of the Act to Wokingham Borough Council Fostering Service:

3.1 Wokingham Borough Council Fostering Service is included in the Act’s definition of a Childcare organisation.

3.2 The Act places statutory requirements on “Child care organisation”:-

- (a) to refer names to the Secretary of State in certain circumstances for possible inclusion on the Protection of Children Act (PoCA) List;
- (b) to check against the PoCA List (and DfEE List 99) when proposing to appoint someone to a childcare position;
- (c) not to employ a person in a childcare position if that person is included on the PoCA List (or DfEE List 99);
- (d) to cease to employ someone in a child care position if it discovers that the individual is included in the PoCA List or (DfEE List 99)

3.3 This appendix concerns itself with (a) above, the referral of Foster Carers to the Secretary of State in certain circumstances for possible inclusion on the PoCA List.

4. Referring a Foster Carer to the Secretary of State

4.1 The Act sets out the circumstances where a childcare organisation must and other organisations may refer names to the Secretary of State for consideration of inclusion in the Protection of Children Act List. These are:-

- (b) that the organisation has dismissed the individual on the grounds of misconduct (whether or not in the course of their employment) which harmed a child or placed a child at risk of harm.
- (c) that the individual has resigned or retired in circumstances such that the organisation would have dismissed them, or would have considered dismissing them, on such grounds if he had not resigned or retired.
- (d) that the organisation has, on such grounds, transferred the individual to a position within the organisation which is not a child care position.
- (e) that the organisation has, on such grounds, suspended the individual or provisionally transferred them to such a position as in (c) above, but has not yet decided whether to dismiss them or confirm the transfer.

4.2 Wokingham Borough Council will apply the above to foster carers. Therefore, we will refer foster carer names to the Secretary of State of consideration of inclusion in the Protection of Children Act List when:-

- (a) Wokingham Council has de-registered a foster carer on the grounds of misconduct (whether or not in the course of fostering) which harmed a child or placed a child at risk of harm;

Fostering Panel Terms of Reference and Procedures

- (b) The foster carer has resigned or retired in circumstances such that the Fostering Service would have de-registered them, or would have considered dismissing them, on such ground if they have not resigned or retired.
- 4.3 Additionally, the Fostering Service may refer names to the Secretary of State in other circumstances. This would be where the Fostering Service has de-registered an individual, they have resigned or retired and where information not available to the Fostering Service at the time has since become available. On the basis of that information the Fostering Service has formed the opinion that, had the information been available at the time and if (where applicable) the individual had not resigned or retired, the Fostering Service would have or would have considered dismissing them on the grounds of misconduct, which harmed a child or placed a child at risk.
- 4.4 **“Would have terminated approval”** – This covers the situation where a foster carer has engaged in misconduct which satisfied the criteria for referral (i.e. misconduct which harmed a child or placed a child at risk of harm) and has possibly been put on “hold” whilst the matter is investigated by the Fostering Service. As a result of the Fostering Service investigation, the Fostering Service is satisfied that the individual has carried out the misconduct and as a result should be de-registered. The Fostering Service can only come to this conclusion if it has completed its enquiry into the allegations.
- 4.5 **“Would have considered termination of approval”** – This type of referral will be where an allegation has come to light which satisfies the criteria. However, before the Fostering Service has had the opportunity to complete its investigation the individual retires/resigns. Until the Fostering Service has completed its investigation it cannot conclude, with any degree of certainty, that the foster carer would have been de-registered. Whilst the Fostering Service will undertake all investigations open to it, it may not be possible to conclude all enquires. For example, if a child made an allegation of abuse the Borough Council would need to interview the child and seek corroborating evidence from any independent sources.
- 4.6 The Fostering Service will attempt to obtain the individual’s comments on the allegations. In the circumstances, where the Fostering Service has only been able to obtain one side of the story (for example, where it has not been possible to get the individuals comments) it is difficult to conclude that the Fostering Service would have deregistered the individual. The Fostering Service could only realistically conclude that the Fostering Service would have considered terminating approval of the individual.
- 4.7 The Fostering Service could only come to that conclusion bearing in mind the nature of the allegations made; termination would have been a serious possibility i.e within the range of reasonable options.
- 4.8 It is important to note that referrals are not required when de- registration of the foster carer was not a serious option. For example, when it would only have been a passing consideration within the range of possible options but not a real possibility.

5. What Constitutes “Misconduct”?

- 5.1 During the passage of this Act through Parliament, members were anxious to ensure that situations where incompetence (whether or not attributable to inadequate training and/or supervision) and “youthful indiscretions” did not result in “automatic” referrals to the Secretary of State. “Misconduct” is not defined within the Act. The determination of “misconduct” must be a matter for the organisation to decide. Keeping in mind the criteria for referrals, the types of circumstance where the Secretary of State would expect a referral to be made would be where any action or inaction on the part of the individual harmed a child or put a child at risk of harm. Acts of omission and commission should both be considered.
- 5.2 The Guidance does not give precise examples because it is not possible to reflect every situation likely to apply. However, in circumstances of this Act misconduct would range from serious sexual abuse through to physical abuse, which may include intentional inappropriate restraint and/or poor child care practices in contravention of the organisational codes of conduct which resulted in harm or risk of harm to the children.

6. Decision Making Re: Referral to Protection of Children Act (PoCA) List

- 6.1 The Head of Service for Children and Families will make the decision whether a referral should be made to the Secretary of State for consideration of inclusion on the Protection of Children Act List. It will be the responsibility of the Looked After Children (LAC) Service Manager to make this referral.
- 6.2 It should be noted that an organisation’s referral of a name does not lead to automatic inclusion on the PoCA List. The minimum information that the Secretary of State will require for all referral is as follows:-
- Full name and date of birth of the individual
 - Confirmation that the individual occupied a childcare post within the meaning of the Act.
 - Full details of the alleged misconduct
 - Detailed explanation about how, by this misconduct, the individual harmed a child or placed a child at risk of harm.
 - Details of any investigations carried out to date and their conclusions, including copies of all relevant papers (including statements, notes of interviews, minutes of meetings).
 - Information on any police involvement (or the involvement of any other agency)
 - Details of proposed further action i.e. dates of court hearings
 - Any other information considered relevant to the circumstances of the alleged misconduct..
- 6.3 In circumstances where a Foster Carer has been put “on hold”, de-registration or has resigned after having been charged with offences against children and who is awaiting the outcome of criminal investigation or trial, a referral to the Secretary of State should also be made.

Fostering Panel Terms of Reference and Procedures

- 6.4 The Secretary of State will initially examine the quality of the information submitted with a referral. He may decide either not to proceed if the case is clearly not suitable for inclusion (i.e the individual was clearly not in a child care position or it is evident from the outset that no children were harmed or put at risk of harm by the actions of the individual) or to seek more information from the organisation before considering whether to proceed with a decision to provisionally include their name on the PoCA List.
- 6.5 The Secretary of State will be looking to make decisions about the provisional listing of individuals as quickly as reasonably possible. Should he require more information from the referring organisation he will expect his request to be considered as a matter of utmost priority by the organisation and would normally expect the organisation to respond within seven working days.

Having satisfied himself that the information provided with the referral (either with the original referral letter or as a result of subsequent further correspondence) is complete, the Secretary of State will decide about provisional listing.

7. Action Following Provisional Listing

- 7.1 If a name is provisionally included on the PoCA List, the Secretary of State will confirm this with the organisation (the person who made the referral) and will immediately inform the individual by letter sent by Recorded Delivery. The individual will then have the opportunity to make written representations direct to the Secretary of State as to why their name should be retained on the PoCA List. The Secretary of State will provide the individual with full details of the information submitted by the referring organisation and will usually copy all papers to the individual.
- 7.2 The individual will be given 28 days in which to make written representations or to indicate that s/he intends to make representations within a reasonable period.
- 7.3 Persons provisionally included in the PoCA List may not be employed in a childcare post within a childcare organisation. Other organisations also need to pay particular regard to the fact that the person is included in the List when considering their appointment to a post, which involves contact with children.
- 7.4 Before a name may be retained on the PoCA List the Secretary of State will need to be of the opinion that the referring organisation reasonably considered the person to be guilty of misconduct which harmed a child or placed a child at risk of harm (whether or not in the course of fostering) and that individual is unsuitable to work with children. Thus, all representations made by the individual will be passed to the referring organisation for comment. Similarly, the Secretary of State would expect to be able to provide the individual concerned with copies of all papers submitted to him from the referring organisation.
- 7.5 This process of information gathering and exchange will continue for as long as it takes the Secretary of State to be satisfied that he has sufficient information to enable him to come to the opinion he is required to reach. Before confirming that a name is to be retained on

Fostering Panel Terms of Reference and Procedures

the PoCA List (other than provisionally) the Secretary of State must form the opinion that:-

- The organisation reasonably considered the individual to be guilty of misconduct (whether or not in the course of fostering) which harmed a child or placed a child at risk of harm; and
- That the individual is unsuitable to work with children

7.6 It should be noted that some people maybe included on the PoCA List, even though the facts which the Secretary of State take into account do not lead to conviction of an offence.

7.7 Where a person has been provisionally included in the PoCA List whilst “on hold”, the Secretary of State will not form his opinion about confirming the name on the List until the Fostering Service has de-registered the individual. However, even if the Secretary of State has been unable to reach a conclusion, the person provisionally on the PoCA List will have the right of appeal as described below.

8. Where Referrals are to be Sent:

All referrals (and any correspondence relating to the operation of the Protection of Children Act List) should be sent to:-

Service Manager - Safeguarding and Quality Assurance
Wokingham Borough Council
Children’s Services
Shute End
Wokingham
Berks RG40 1BN