

**Surrey County Council Fostering Service**

**Exemption and Variation Policy**

**Author:** Maria Griffiths, Panel Advisor

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1. Scope

This policy outlines Surrey County Council’s process, in relation to Surrey approved foster carers.

Note: All requests for exemptions for foster carers who live within Surrey, must be made to the Fostering Service Manager for approval. If foster carers live in a different local authority area, applications for an exemption must be made to the manager of the Fostering Service, in the area where the Foster Carer lives.

Relevant legislation and guidance can be found in:

* Fostering Services (England) Regulations 2011 (as amended 2013)
* The Children Act 1989 Guidance Volume 4 (2011) Chapter 5
* Fostering National Minimum Standards 2011, Standard 14
* The Children Act 1989 Guidance Volume 4 (2011) Chapter 5
* Schedule 7 Children Act 1989
* Care planning, placement and case review (England) regulations 2010, regulation 23

2. Usual Fostering Limit - Schedule 7 of Children Act (1989)

Schedule 7 of The Children Act 1989 limits the number of children who may be placed with a Foster Carer. The ‘usual fostering limit’ is set at 3, which means that no carer can foster more than 3 children unless:

• The children are all siblings in relation to each other, **or**

• The local authority (in whose area the carer lives) has made an **exemption\*** for that carer which relates to named children, **or**

• The placement is made in an emergency and lasts no more than 6 working days

Any individual who wishes to be registered to care for four or more unrelated looked after children is required to register as a children’s home. Registration as a foster carer usually limits the number of unrelated children who can be cared for at any one time to three.

**\*An ‘exemption’** refers to the power given to local authorities under the Children Act (1989) to exempt a foster carer from this requirement to register as a children’s home. This allows them to care for four, or more, specific named children. Exemptions must be agreed in advance of more than three unrelated children moving in.

3. Reasons why an exemption may be considered

Exemptions should only be made in exceptional circumstances. Some of the circumstances which may lead to an application for an exemption are:

* The child was previously living with the foster carer(s) and they need to return (for example because their current arrangement has disrupted)
* This arrangement is required to keep siblings together
* The foster carer(s) are the most appropriate match for the children, considering race, religion, disability, language, or culture
* The foster carer(s) have specific skills, which enable them to meet the children’s needs, which are not available anywhere else

An application for an exemption from the usual fostering limit can only be made with the agreement of the foster carer(s). The following need to be taken into account when considering an exemption:

1. The number, ages, and circumstances of all children concerned
2. The proposed arrangements for the care and bedroom/sleeping arrangements of all children in the household
3. The relationship between the foster carer(s) and the children
4. The period of time that the exemption will be required for
5. The likely impact on all children living in the household; including the views and wishes of the children and their views of all children’s social workers
6. The foster carer’s capacity to provide sufficient care for all children living in the household
7. The need to safeguard and promote the welfare of all children living in the home, including the carer’s own children

4. Process for Exemptions

*(A flow chart is included as an appendix, to show visually the steps that need to be taken)*

The need for an exemption should be identified at the point when a suitable foster family for the child(ren) is being sought. If a foster carer is identified as the most appropriate carer to meet the child(ren)’s needs, and the foster carer agrees, the Supervising Social Worker should ask the Foster Carer to confirm this in writing, and consult the Social worker for any other children in the home for their views on any impact there could be on the child (positive or negative) if the exemption is granted.

If the children being placed are within the foster carers’ terms of approval in relation to, age, gender, or type of fostering, and the foster carer has been fostering for more than twelve months, or the planned period of care is less than six nights (for example for a planned sleepover); then the following action is to be taken:

-The Supervising social worker completes the exemption form on LCS, and reassigns this to the Fostering Service Manager

-The Fostering Service Manager will review the form, clearly recording their decision, and the rationale for this decision. A time limit may be specified; an exemption can only extend beyond that date, if authorised by the Fostering Service Manager. An exemption is specific to a child or children and can be subject to conditions; these conditions should be listed in the form.

The Fostering panel need to be made aware of the exemption; this is done by sending the Panel Advisor a copy of the exemption form. This will be listed for information only, so the SSW does not need to attend panel.

Nothing further needs to be done, except to notify the carer in writing, and to abide by any conditions set by the manager granting the exemption.

When we inform carers in writing of the exemption, and the letter must state:

* That the carer is exempted
* The names of all children whom they may foster
* Of any condition(s) to which the exemption is subject

If the child(ren) fall outside of a foster carer’s terms of approval, and the children remain beyond six working days, the foster carers’ terms of approval must be changed by immediate review, which is discussed in section 6.

5. The relationship between exemptions and variations

An exemption relates only to more than three unrelated children living with a foster carer.

Temporary variation to terms of approval, is better understood as ‘permission to place outside a carer’s terms of approval in an emergency’. Some examples of times when variations are needed, might be;

-A foster carer is approved to care for one child, and we wish to place two children

-A foster carer is approved for a certain age range, and a child falls outside of that age range

-A foster carer’s approval states that they can care for two children, and we wish to place three children

A placement may be made in an emergency with any carer outside their terms of approval for a maximum of six working days under [**Reg 23(1) of the The Care Planning, Placement and Case Review (England) Regulations 2010**](http://www.legislation.gov.uk/uksi/2010/959/regulation/23/made). The regulations state that after six working days the placement must be terminated unless the terms of approval have been changed. (The process for changing approval is explained in section 6)

\*Note – there may be some occasions when a variation **and** an exemption is required, for example, more than three children are being placed, and they are not siblings, and they are outside of the carer’s terms of approval.

6. Immediate Review Process

If a child will remain with the carer for more than six working days, or the child is outside of the carer’s terms of approval, then the foster carers approval must be reviewed and amended.

If the foster carer has been approved for less than twelve months, and has not yet had their first annual review, **a full annual review needs to be undertaken urgently.** The Fostering Reviewing Officer needs to be made aware an urgent review is required. The Fostering Panel Advisor also needs to be made aware, so that the review can be heard urgently at the next available panel slot.

However, in all other circumstances, whereby carers have been approved for more than one year, the “immediate review” process will take place, as follows:

1. The foster carer provides their agreement to the change of approval in writing (usually via email)
2. The Supervising Social Worker books an immediate review slot with the Fostering Reviewing Officer (slots will be available at a set time each week)
3. The Social Worker (or their Team Manager if they are not available) and Fostering Reviewing Officer will meet on Teams and consider the last Annual Review
4. During the meeting the variation/exemption form on LCS will be completed to form the basis of an “immediate review.” The discussion needs to consider the carer’s ability to meet the needs of the specific child(ren). Any concerns identified at the last review must be discussed. The Social worker, Team Manager or Fostering Reviewing Officer will input information into the LCS form during this call, recording who was present and the recommendation agreed
5. The LCS Form is reassigned to the Fostering Service Manager for approval
6. The Fostering Service Manager will read the LCS form, as well as the last annual review, and will make their decision, clearly recording on the form the rationale for this decision
7. The service manager will notify the Social Worker and Reviewing Manager of their decision. They will also notify business support so a letter can be sent to the foster carer confirming the change of approval in writing. \*note, as described in section 4, and the letter must state:

* That the carer is exempted
* The names of all children whom they may foster
* Of any condition(s) to which the exemption is subject

The household review due dates for the foster carer(s) would remain the same; the immediate review process does not override the date the carer’s next full annual review is due.

The Fostering panel do not need to know that an immediate review has taken place; however, should the foster carer(s) next full annual review take place, and the varied terms of approval are still required, as the child(ren) remain with the foster carer, then a return to panel for oversight of the review is needed.

7. Monitoring Exemptions

The responsibility for monitoring exemptions, is held by the Supervising Social Worker and Team Manager. During their supervision discussions, they need to consider the ongoing suitability of the carer to meet the needs of all children in their care, including ensuring any conditions to the exemption are still being met.

If a time limit has been stated on the exemption, it is the responsibility of the Team Manager to notify the Service Manager, in advance of the expiry, if the children remain, and therefore a further exemption is needed.

It the exemption continues for over twelve months, the Fostering Reviewing Officers will also have some oversight as part of the review process, and need to ensure that during the foster carer’s annual review discussion, their ongoing capacity to meet the needs of all children is considered.

There is no need to formally “end” exemptions if children leave; as an exemption related to specific named children, once those children are no longer in the household, the foster carer’s approval will revert to the approval stated prior to the exemption being granted.

8. Key points to remember

An exemption is always needed when more than three unrelated children are placed in one household

If the Foster carer has been approved for less than twelve months, then they must return to panel as soon as is practically possible

One some occasions, both an exemption **and** a temporary variation is required

A carer must always confirm their agreement in writing, and be written to with confirmation of the exemption

**Appendix 1: Links to key documents**

The Fostering Network practice information note regarding legislation around exemptions

[Practice Information Note on exemptions in England (updated August 2022)](https://www.thefosteringnetwork.org.uk/sites/default/files/2022-09/2022.08%20PIN%20Exemptions%20updated%20Aug2022.pdf)

The Children Act 1989 Sch 7: Foster Parents: Limits on number of foster children <http://www.legislation.gov.uk/ukpga/1989/41/schedule/7>

Fostering Regulations (England) 2011 <http://www.legislation.gov.uk/uksi/2011/581/contents/made>

The Care Planning, Placement and Case Review (England) Regulations 2010 <http://www.legislation.gov.uk/uksi/2010/959/made>

The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013 <http://www.legislation.gov.uk/uksi/2013/984/contents/made>

The Children Act 1989 Guidance and Regulations Volume 4: Fostering Services (2011)

[Fostering Guidance - MASTER (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/274220/Children_Act_1989_fostering_services.pdf)

Fostering Services: National Minimum Standards 2011

[Fostering Guidance - MASTER (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/192705/NMS_Fostering_Services.pdf)

**Appendix 2: Process Flowchart**

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