

**Surrey County Council Fostering Service**

 **Exemption, Variation, and Immediate Review Practice Guidance**

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1. Scope

This policy outlines Surrey County Council’s process, in relation to exemptions, temporary variations of approval, and immediate reviews to change approval, for Surrey approved foster carers.

All Surrey foster carers will have terms of approval, which are listed in their approval letter and recorded on the system. The usual process for changing approval terms, in a planned way, is that these are discussed at the next fostering household review, and this review is presented to the fostering panel, with the agency decision maker, making the final decision.

Any carer who will be looking after a child outside of their terms of approval in an emergency or at very short notice, requires a change of approval through the processes set out in this policy.

Any requests for exemptions for foster carers who live in a different local authority area, 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. Variations and the Immediate Review Process

Whilst changes of approval should be planned, there are sometimes situations where a carer is willing to care for a child, outside of their current terms of approval in an emergency.

Temporary variation to terms of approval, is better described 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 an 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 care planning regulations are clear that if placing in an emergency, the child can remain for six working days or less only and the carer has been approved for more than twelve months, a change of approval is not required. The fostering service manager, as one of the ADM’s, will need to agree to a temporary variation of approval, for those six working days. In order to do this they need to receive a variation form, which is completed by the supervising social worker and the team manager.

The regulations state that after six working days the placement must be terminated unless the terms of approval have been changed via a review. (as per the immediate review process described in this document.)

Therefore, if a child will remain with the carer for more than six working days, or, this is not an emergency (ie a planned sleepover) then the foster carers terms of approval must be reviewed and changed.

 In recognition that completion of the full annual review process being completed within six working days can be a challenge, where the foster carer has been approved for *over* one year, the “immediate review” process to change the carers terms of approval 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) and will start the Variation and Exemption form as well as the Risk Assessment on LCS.
3. The Social Worker (or their Team Manager if they are not available), Fostering Reviewing Officer, and where possible the foster carer, will meet virtually and consider the last Annual Review and the needs of the children to be placed outside the carers current terms of approval.
4. During the meeting the variation/exemption form on LCS will be completed to form the basis of a record of the “immediate review.” **\*\*Note, whilst the form used to gather information is named the variation and exemption form, this is not a variation or exemption, it is an immediate review.**
5. The discussion during the immediate review 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 Fostering Reviewing Officer will have final oversight of the LCS form, recording who was present at the meeting and the recommendation made.
6. The LCS Form is reassigned to the Fostering Service Manager.
7. The Fostering Service Manager will read the LCS form, as well as the last annual review Fostering Review Officer Report, and will make their decision as the ADM, clearly recording on the form the rationale for this decision.
8. The Service Manager will notify the Social Worker, Team Manager and Fostering Review Officer 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.

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

The Fostering panel do not need to know that an immediate review has taken place. However, when the carer’s next full review takes place, should the changed terms of approval still be relevant, then a return to panel for oversight may be required depending on the circumstances The foster carers will be notified of the decision to return to panel and reason why if this falls outside Surrey’s procedure for foster carers to return to panel every three years.

It must be noted that if the service wishes to place a child outside a foster carers terms of approval within the foster carers first year of approval and they have not yet had their first annual review, the immediate review process detailed above should be followed and **a full annual review to be undertaken and presented to panel urgently.** The Fostering Reviewing Officer and Panel Advisor need to be made aware an urgent review is required, so that relevant plans can be made.

3. The relationship between exemptions and variations

There is a relationship between temporary variations of approval, changes of approval, and exemptions.

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

Usually, when an exemption is required, there will also be either a variation, or immediate review to change approval, required. The only time when this is not the case, is if the carer is already approved to care for more than three children, and the children are staying for six days or fewer; in this circumstance, only an exemption is required.

4. Exemptions

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 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.

5. Reasons why an exemption may be considered

Exemptions should only be made in exceptional circumstances. Some of the circumstances which may lead to 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 written agreement of the foster carer(s). The following needs 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

6. 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 child(ren) fall outside of a foster carer’s terms of approval, and the children are to remain beyond six working days, the foster carers’ terms of approval must be changed by immediate review, which is discussed in section 2 of this policy.

If the children to be placed are within the foster carers’ terms of approval in relation to number of allowed children, age, 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, then the following action is to be taken:

-The Supervising social worker completes the exemption form on LCS, and reassigns this to their Team Manager. The team manager will add management oversight, then reassign to the Fostering service manager

-The Fostering Service Manager will review the form, clearly recording their decision, and the rationale. 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; when the service manager agrees the exemption, they will notify the Panel Advisor. The exemption will be listed for panel to note 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, the letter will state:

* That the carer is exempted from the requirement to register as a Children’s Home
* The names of all children whom they may foster under the exemption
* Of any condition(s) to which the exemption is subject

7. Monitoring Exemptions

The responsibility for monitoring exemptions, is held by the Supervising Social Worker overseen by the Team Manager. During supervision discussions, (between the SSW and carers, as well as SSW and Team Manager) there needs to be consideration given to 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. If the exemption continues for over twelve months, the Fostering Reviewing Officers will also have 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 is related to specific named children, once those children are no longer in the household, the foster carer’s approval will change back 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 a foster carer is regularly able to care for more than three children, then their approval needs to be changed, to reflect that greater number. This means, that on each future occasion that more than three unrelated children are placed, whilst an exemption form needs to be completed, no review is required

An exemption can only be granted by the Fostering Service Manager, or equivalent, of the Fostering Service in which the foster carer lives and so the forms completed will be shared with the relevant individual in the other Authority. Information will be shared by Surrey’s Fostering Service Manager.

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

A carer must always confirm their agreement in writing to a variation, exemption or change of approval through the immediate review process.

**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**

