

Qualifying Determinations – Practice Guidance

Reviews and terminations of approval

(7) If, taking into account any recommendation made by the fostering panel, the fostering service provider are no longer satisfied that the foster parent or the foster parent's household continue to be suitable, or that the terms of the approval are appropriate, they must (subject to paragraph (8))—

(a) give written notice to the foster parent that they propose to terminate, or (as the case may be) revise the terms of, the foster parent's approval (a “qualifying determination”), together with their reasons and a copy of any recommendation made by the fostering panel, and

(aa) in any case where the fostering service provider propose only to revise the terms of the foster parent's approval—

(i) provide a statement setting out whether the fostering service provider considers that the foster parent or members of the foster parent's household (including any children placed there) may have additional support needs as a result of the proposed revision and, if so, how those needs will be met, and

(ii) request the foster parent's agreement in writing to the proposed revision of terms,

(b) advise the foster parent that, within 28 days of the date of the qualifying determination, the foster parent may—

(i) submit any written representations that the foster parent wishes to make to the fostering service provider, or

(ii) apply to the Secretary of State for a review by an independent review panel of the qualifying determination.

(8) Paragraph (7)(b)(ii) does not apply in a case where, in accordance with regulation 26(8), the fostering service provider are no longer satisfied that the foster parent or the foster parent's household continue to be suitable, or that the terms of the approval are appropriate.

(9) Subject to paragraph (9A)] if within the period referred to in paragraph (7)(b)—

(a) the fostering service provider do not receive any representations, and

(b) the foster parent does not apply to the Secretary of State for a review by an independent review panel of the qualifying determination, the fostering service provider may proceed to make their decision.

(10) If, within the period referred to in paragraph (7)(b), the fostering service provider receive any written representations, they must—

(a) refer the case to the fostering panel for its consideration, and

Qualifying Determinations – Practice Guidance

(b) make their decision, taking into account any recommendation made by the fostering panel.

(11) If, within the period referred to in paragraph (7)(b), the foster parent applies to the Secretary of State for a review by an independent review panel of the qualifying determination, the fostering service provider must make their decision taking into account any recommendation made by the fostering panel and the recommendation of the independent review panel.

(Fostering Services Regulations (2011))

Practice Guidance:

When applicant or approved foster carers are presented to fostering panel with a negative recommendation for initial or continued approval and this decision is ratified by the Agency Decision Maker (ADM), the decision sent down is a 'Qualifying Determination'. When applicant or approved foster carers receive a Qualifying Determination, there are four options then available to them:

- Accept the Qualifying Determination and applicant foster carers will not be approved and approved foster carers' terms of approval will cease at 28 days of the Qualifying Determination being set down.
- Make a representation to Fostering Panel to ask that the panel considers further information that was not included in the original reports and personal testimony that was initially presented to the fostering panel. This is not a re-assessment and can only include additional information to the original assessment report (either a Form K, Form F, Annual review report or Addendum Summary report) that the applicant foster carers or approved foster carers feel should have been made available to the fostering panel initially.
- Make a complaint to the Fostering Service. The complaint cannot be about the Qualifying Determination itself but can focus on any areas of the assessment process that the applicant or approved foster carers are not happy with and which they feel disadvantaged or misrepresented them in any way.
- Make representation to the Independent Review Mechanism (IRM) which is a further independent fostering panel set outside of the Fostering Agency. The members of the IRM are experienced fostering panel members who can sit on fostering panels from all over the country. The applicant or approved foster carers are invited to attend along with representatives from the Fostering Service, usually the assessing social worker and a manager. The initial panel report that was presented to the Fostering Service is presented again for consideration. After hearing all of the evidence and considering the Fostering Service's Qualifying Determination, the IRM panel can only then make a recommendation based upon the information that has been presented to them. The



Qualifying Determinations – Practice Guidance

IRM then refers their recommendation back to the Fostering Services' own ADM to make the decision. The cost of the IRM is borne by the Fostering Service.

It is important to remember that applicant or approved foster carers are only allowed to progress ONE of the options above and must notify the Fostering Service of the intention to do so in writing within 28 days of the original Qualifying Determination being sent down. Where a request to progress a response to the Qualifying Determination is received outside of 28 days of the initial Qualifying Determination being sent down, the applicant or approved foster carers are not able to make any further representation against the Qualifying Determination under any circumstances. There is not an option to progress any one of these responses and then try another response should the initial choice not achieve a positive outcome.

References:

Fostering Services Regulations (2011)

<https://www.legislation.gov.uk/ukxi/2011/581/regulation/28>

Independent Review Mechanism

<https://www.gov.uk/government/organisations/independent-review-mechanism>